

1 Sean Reis (SBN 184044)  
sreis@edelson.com  
2 Edelson McGuire, LLP  
30021 Tomas Street, Suite 300  
3 Rancho Santa Margarita, California 92688  
4 Tel: 949.459.2124  
Fax: 949.459.2123

5  
6 Ryan D. Andrews  
randrews@edelson.com  
7 John C. Ochoa  
jochoa@edelson.com  
8 Edelson McGuire, LLC  
350 North LaSalle, Suite 1300  
9 Chicago, Illinois 60654  
Tel: 312.589.6370  
10 Fax: 312.589.6378

11 Attorneys for Plaintiff  
12 JESSICA LEE

13 **UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

14 JESSICA LEE, individually and on behalf of a  
15 class of similarly situated individuals,

16 Plaintiff,

17 v.

18 STONEBRIDGE LIFE INSURANCE  
COMPANY, a Vermont corporation, and  
19 TRIFECTA MARKETING GROUP LLC, a  
Florida limited liability company,

20 Defendants.  
21  
22  
23  
24  
25  
26  
27  
28

Case No. CV 11-0043-RS

**DECLARATION OF JOHN C. OCHOA IN  
SUPPORT OF PLAINTIFF'S MOTION  
FOR CLASS CERTIFICATION**

Judge: Hon. Richard Seeborg

1 I, JOHN C. OCHOA, hereby aver, pursuant to 28 U.S.C. § 1746, that I have personal  
2 knowledge of all matters set forth herein unless otherwise indicated, and would testify thereto if  
3 called as a witness in this matter

4 1. I am an adult over the age of 18, and a resident of the State of Illinois. I represent  
5 the Plaintiff, Jessica Lee, in this matter. I am fully competent to make this Declaration, and make  
6 such Declaration in support of Plaintiff's Motion for Class Certification.

7 2. Attached to this Declaration as Exhibit 1 is a true and accurate copy of the main  
8 findings of a Pew Research Center study published on August 2, 2012 entitled "Mobile Phone  
9 Problems" This document is accessible at URL [http://www.pewinternet.org/Reports/2012/Mobile-](http://www.pewinternet.org/Reports/2012/Mobile-phone-problems/Main-findings/Mobile-phone-problems.aspx)  
10 [phone-problems/Main-findings/Mobile-phone-problems.aspx](http://www.pewinternet.org/Reports/2012/Mobile-phone-problems/Main-findings/Mobile-phone-problems.aspx).

11 3. Attached to this Declaration as Exhibit 2 is a true and accurate copy of a New York  
12 Times Article written by Nicole Perloth and published on April 7, 2012 entitled "Spam Invades a  
13 Last Refuge, the Cellphone."

14 4. Attached to this Declaration as Exhibit 3 are documents bates labeled SLIC 000001-  
15 000024. These documents consist of a "Call-Back Agreement" between Defendant Stonebridge  
16 Life Insurance Co. ("Stonebridge") and Defendant Trifecta Marketing Group LLC ("Trifecta").  
17 Stonebridge has designated these documents as "Confidential-attorneys eyes only" pursuant to the  
18 Protective Order entered in this case on June 6, 2011. As a result, Plaintiff has filed an  
19 administrative motion to file this document under seal, and has submitted it to this Court under seal  
20 in connection with that Motion.

21 5. Attached to this Declaration as Exhibit 4 are true and accurate copies of excerpts  
22 from the deposition of Alois Rubenbauer, which occurred on August 9, 2012 in Salt Lake City,  
23 Utah.

24 6. Attached to this Declaration as Exhibit 5 is a true and accurate copy of an invoice  
25 from PBX Change to Trifecta Marketing Group LLC, which was marked as Exhibit 40 during the  
26 deposition of Alois Rubenbauer.

1           7.       Attached to this Declaration as Exhibit 6 is a true and accurate copy of an invoice  
2 from PBX Change to Trifecta Marketing Group LLC, which was marked as Exhibit 41 during the  
3 deposition of Alois Rubenbauer.

4           8.       Attached to this Declaration as Exhibit 7 is a true and accurate copy of an invoice  
5 from PBX Change to Trifecta Marketing Group LLC, which was marked as Exhibit 42 during the  
6 deposition of Alois Rubenbauer.

7           9.       Attached to this Declaration as Exhibit 8 is a true and accurate copy of a document  
8 bates labeled SLIC 000049. Stonebridge has designated this document as “Confidential” pursuant to  
9 the Protective Order entered in this case on June 6, 2011. As a result, Plaintiff has filed an  
10 administrative motion to file this document under seal, and has submitted it to this Court under seal  
11 in connection with that Motion.

12          10.      Attached to this Declaration as Exhibit 9 are true and accurate copies of documents  
13 bates labeled SLIC 000057-000083 (hereinafter “Stonebridge Leads List.”) Stonebridge has  
14 designated these documents as “Confidential-Attorney’s Eyes Only” pursuant to the Protective  
15 Order entered in this case on June 6, 2011. As a result, Plaintiff has filed an administrative motion  
16 to file this document under seal, and has submitted it to this Court under seal in connection with that  
17 Motion.

18          11.      Attached to this Declaration as Exhibit 10 is a true and accurate copy of document  
19 bates labeled SLIC 000038. Stonebridge has designated this document as “Confidential” pursuant  
20 to the Protective Order entered in this case on June 6, 2011. As a result, Plaintiff has filed an  
21 administrative motion to file this document under seal, and has submitted it to this Court under seal  
22 in connection with that Motion.

23          12.      Attached to this Declaration as Exhibit 11 is a true and accurate copy of document  
24 bates labeled SLIC 000047. Stonebridge has designated this document as “Confidential” pursuant  
25 to the Protective Order entered in this case on June 6, 2011. As a result, Plaintiff has filed an  
26 administrative motion to file this document under seal, and has submitted it to this Court under seal  
27 in connection with that Motion.  
28

1           13. Attached to this Declaration as Exhibit 12 is a true and accurate copy of the  
2 “subscriber detail” for telephone number 650-283-0793” for the time period of November 15, 2010  
3 to January 31, 2011, produced by T-Mobile U.S.A. in response to a subpoena issued in the related  
4 case: *Hubbard, et al. v. Wenner Media LLC*, No 11-cv-4648 (N.D. Cal.).

5           14. According to the Florida Secretary of State website, an individual named “Joseph  
6 Montalbano” was a managing member of the company Impulse Marketing LLC. A true and  
7 accurate copy of the Florida SOS Entity Detail for Impulse Marketing LLC is attached as Exhibit  
8 13. A comparison of the address for Impulse Marketing LLC and the address for Trifecta, which  
9 appears on Exhibit’s 5-7 of my Declaration, show that the two companies had the same mailing  
10 address.

11           15. My law firm compared telephone numbers with a “call date” between November 28,  
12 2010 and December 4, 2010 that appear on the Stonebridge Leads List to the T-Mobile List, and  
13 found that 26 phone numbers that appear on the T-Mobile List match the unredacted portion of the  
14 phone numbers that appear on the Stonebridge Leads List. The “contact date” for the telephone  
15 numbers listed on the Stonebridge Leads List all fall within a few days of the transmission date on  
16 the T-Mobile List.

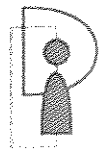
17           16. Attached to this Declaration as Exhibit 14 are true and accurate copies of excerpts  
18 from the deposition of Plaintiff Jessica Lee, which occurred on July 31, 2012 in Richmond,  
19 Virginia. Stonebridge has designated this document as “Confidential” pursuant to the Protective  
20 Order entered in this case on June 6, 2011. As a result, Plaintiff has filed an administrative motion  
21 to file this document under seal, and has submitted it to this Court under seal in connection with that  
22 Motion.

23           17. Attached to this Declaration as Exhibit 15 is a true and accurate copy document bates  
24 labeled P177. Plaintiff has designated this document as “Confidential” pursuant to the Protective  
25 Order entered in this case on June 6, 2011. As a result, Plaintiff has filed an administrative motion  
26 to file this document under seal, and has submitted it to this Court under seal in connection with that  
27 Motion.  
28

19. Attached to this Declaration as Exhibit 17 is a true and accurate copy of the Florida SOS Entity Detail for Trifecta Marketing Group LLC.

/s/ John C. Ochoa  
John C. Ochoa

# Exhibit 1



**Pew Internet**  
Pew Internet & American Life Project

a project of the  
**PewResearchCenter**

AUGUST 2, 2012

---

## **Mobile Phone Problems**

*Telemarketing calls and spam texts are realities for most cell phone users. Smartphone owners are particularly likely to report dropped phone calls and slow download speeds.*

**Jan Lauren Boyles**  
*Research Intern, Pew Internet Project*

**Lee Rainie**  
*Director, Pew Internet Project*

Pew Research Center's Internet & American Life Project  
1615 L St., NW – Suite 700  
Washington, D.C. 20036  
Phone: 202-419-4500

<http://pewinternet.org/Reports/2012/Mobile-phone-problems.aspx>

## Main Findings

Even though mobile technology often simplifies the completion of everyday tasks, cell phone owners can also encounter technical glitches and unwanted intrusions on their phones. In an April 2012 survey, the Pew Research Center's Internet & American Life Project assessed the prevalence of four problems that cell owners might face.

Some 88% of American adults have cell phones, according to this survey, and, of those cell owners:

- 72% of cell owners experience dropped calls at least occasionally. Some 32% of cell owners say they encounter this problem at least a few times a week or more frequently than that.
- 68% of cell owners receive unwanted sales or marketing calls at one time or another. And 25% of cell owners encounter this problem at least a few times a week or more frequently.

Some 79% of cell phone owners say they use text messaging on their cells. We asked them if they got spam or unwanted texts:

- 69% of those who are texters say they get unwanted spam or text messages. Of those texters, 25% face problems with spam/unwanted texts at least weekly.

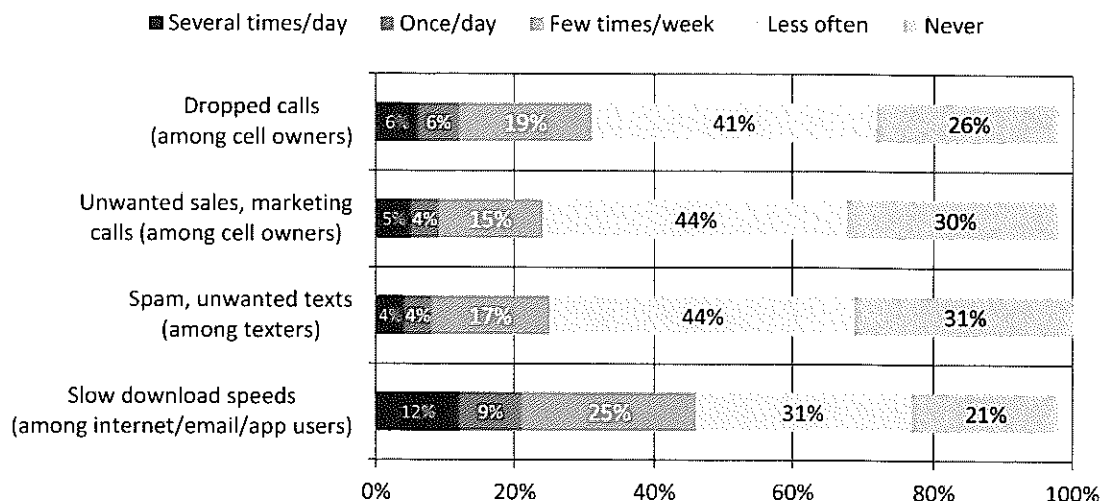
Some 55% of cell phone owners say they use their phones to go online— to browse the internet, exchange emails, or download apps. We asked them if they experience slow download speeds that prevent things from loading as quickly as they would like:

- 77% of cell internet users say they experience slow download speeds that prevent things from loading as quickly as they would like. Of those cell internet users, 46% face slow download speeds weekly or more frequently.



## How often cell users experience problems with their phones

Among Americans ages 18+ who are cell owners, texters or cell internet/email/app users respectively



\* The figures in this chart do not sometimes match the bullets above due to rounding issues

Source: Pew Research Center's Internet & American Life Project Spring Tracking Survey, March 15-April 3, 2012. N for cell owners=1,954. N for cell owners who text message=1,395. N for cell owners who use the internet or email on their cell phones or download apps to their cell phone=953. Interviews conducted in English and Spanish and on landline phones and cell phones.

Our questions were not intended to measure the incidence of illegal marketing to cell phones. They focused on unwanted intrusions. Still, the telemarketing and spam text findings are noteworthy because legal restrictions apply to both activities under certain circumstances. It is against the law in the U.S. to place unsolicited commercial calls to a mobile phone when the call is made by using an automated random-digit dialing generator or if the caller uses a pre-recorded message.<sup>1</sup>

In the case of unsolicited texts, commercial parties cannot send spam to cell owners who have placed their mobile device on the National Do Not Call registry. For those who have not chosen to go on that registry, governmental regulations bar text messages sent from internet domain names. Any mobile-to-mobile spam messages are permissible to reach consumers on their cell phones, so long as the text contacts were not generated through an automatic dialing system.<sup>2</sup>

## Smartphone owners report more problems

Smartphone owners reported higher incidence levels of these problems, compared with other cell owners, as shown in the table below.

<sup>1</sup> More information available at "Truth about Wireless Phones and the National Do-Not-Call List" available at <http://www.fcc.gov/guides/truth-about-wireless-phones-and-national-do-not-call-list>

<sup>2</sup> More information available at "Spam: Unwanted Text Messages and Email" available at <http://www.fcc.gov/guides/spam-unwanted-text-messages-and-email>

### Smartphone owners confront challenging mobile problems

*% in each group who have encountered mobile phone problems AT LEAST WEEKLY...*

	Smartphone owners	Other cell owners
Dropped calls (among cell owners)	35%*	28%
Unwanted sales, marketing calls (among cell owners)	26%	23%
Spam, unwanted texts (among texters)	29%*	20%
Slow download speeds (among mobile internet / email / apps users)	49%*	31%

\* Denotes statistically significant difference

**Source:** Pew Research Center's Internet & American Life Project Spring Tracking Survey, March 15-April 3, 2012. N for cell owners=1,954. N for cell owners who text message=1,395. N for cell owners who use the internet or email on their cell phones or download apps to their cell phone=953. Interviews conducted in English and Spanish and on landline phones and cell phones.

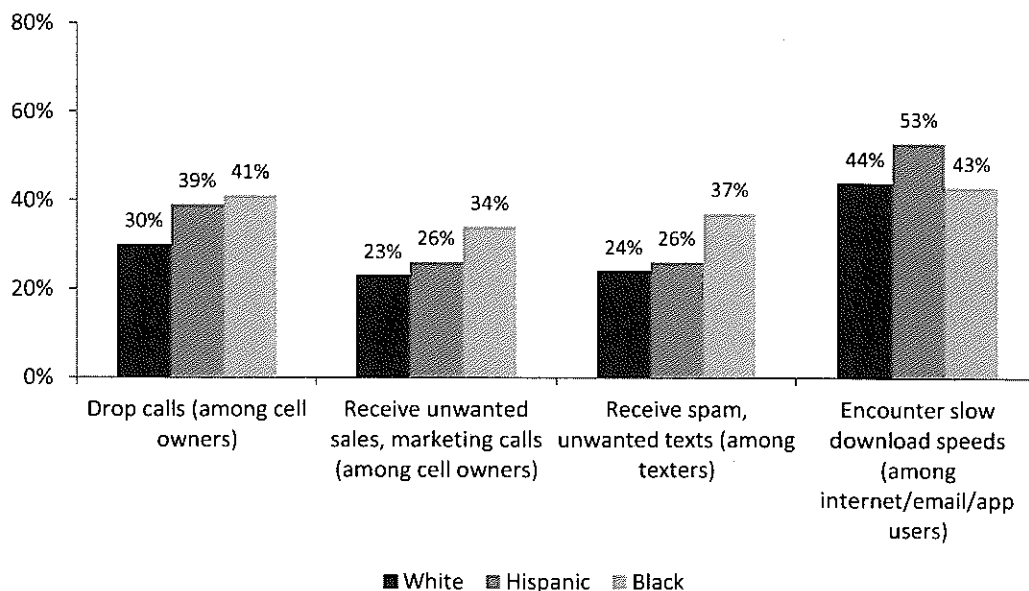
Non-white cell owners confront all four problems at somewhat higher weekly rates than do their white counterparts. This might be tied to the fact that African-Americans and Hispanics are more likely than whites to rely on their cell phones as their primary or exclusive phones for calling and for internet access.<sup>3</sup>

For instance, more than half of Hispanic cell internet users (53%) face slow download times at least weekly or more often, compared with 44% of white cell internet users who report this problem. Some 41% of black and 39% of Hispanic cell owners reported dropping calls at least weekly, compared with 30% of white cell owners.

<sup>3</sup> See, for instance, Pew Internet Project report "Cell Internet Use 2012." June 26, 2012. Available at <http://pewinternet.org/Reports/2012/Cell-Internet-Use-2012.aspx>

### Ethnicity and mobile phone problems

% of cell owners, texters or cell internet/email/app users respectively who AT LEAST WEEKLY...



**Source:** Pew Research Center's Internet & American Life Project Spring Tracking Survey, March 15-April 3, 2012. N for cell owners=1,954. N for cell owners who text message=1,395. N for cell owners who use the internet or email on their cell phones or download apps to their cell phone=953. Interviews conducted in English and Spanish and on landline phones and cell phones.

## About the Pew Internet Project

The **Pew Research Center's Internet & American Life Project** is an initiative of the Pew Research Center, a nonprofit "fact tank" that provides information on the issues, attitudes, and trends shaping America and the world. The Pew Internet Project explores the impact of the internet on children, families, communities, the work place, schools, health care and civic/political life. The Project is nonpartisan and takes no position on policy issues. Support for the Project is provided by The Pew Charitable Trusts. More information is available at [pewinternet.org](http://pewinternet.org).

## Survey Questions and Methodology

### Spring Tracking Survey 2012

Final Topline

04/10/2012

Data for March 15–April 3, 2012

Princeton Survey Research Associates International for  
the Pew Research Center's Internet & American Life Project

Sample: n=2,254 national adults, age 18 and older, including 903 cell phone interviews  
Interviewing dates: 03.15.2012 – 04.03.2012

Margin of error is plus or minus 2 percentage points for results based on Total [n=2,254]

Margin of error is plus or minus 3 percentage points for results based on internet users [n=1,803]

Margin of error is plus or minus 3 percentage points for results based on cell phone owners [n=1,954]

Margin of error is plus or minus 3 percentage points for results based on cell phone owners who text message  
[n=1,395]

Margin of error is plus or minus 4 percentage points for results based on those who use the internet or email on  
their cell phone or download apps to their cell phone [n=953]

Margin of error is plus or minus 4 percentage points for results based on those who use the internet or email on  
their cell phone [n=929]

Margin of error is plus or minus 4 percentage points for results based on those who download apps to their cell  
phone [n=714]

**Q33** How often, if ever, do you experience [INSERT ITEMS; RANDOMIZE] on your cell phone? Do you experience this several times per day, about once a day, a few times per week, less often, or never?

	SEVERAL TIMES PER DAY	ABOUT ONCE A DAY	A FEW TIMES PER WEEK	LESS OFTEN	NEVER	DON'T KNOW	REF.
<i>Items A and B: Based on cell phone owners [N=1,954]</i>							
a. Dropped phone calls	6	6	19	41	26	1	*
b. Unwanted sales or marketing calls	5	4	15	44	30	1	1
<i>Item C: Based on cell phone owners who text message [N=1,395]</i>							
c. Spam or unwanted text messages	4	4	17	44	31	*	*
<i>Item D: Based on those who use the internet or email on their cell phone or download apps to their cell phone [N=953]</i>							

d. Slow download speeds that prevent things from loading as quickly as you would like them to	12	9	25	31	21	2	1
---	----	---	----	----	----	---	---

This report is based on the findings of a survey on Americans' use of the Internet. The results in this report are based on data from telephone interviews conducted by Princeton Survey Research Associates International from March 15 to April 3, 2012, among a sample of 2,254 adults, age 18 and older. Telephone interviews were conducted in English and Spanish by landline (1,351) and cell phone (903, including 410 without a landline phone). For results based on the total sample, one can say with 95% confidence that the error attributable to sampling is plus or minus 2.4 percentage points. For results based Internet users<sup>4</sup> (n=1,803), the margin of sampling error is plus or minus 2.7 percentage points. In addition to sampling error, question wording and practical difficulties in conducting telephone surveys may introduce some error or bias into the findings of opinion polls.

A combination of landline and cellular random digit dial (RDD) samples was used to represent all adults in the continental United States who have access to either a landline or cellular telephone. Both samples were provided by Survey Sampling International, LLC (SSI) according to PSRAI specifications. Numbers for the landline sample were selected with probabilities in proportion to their share of listed telephone households from active blocks (area code + exchange + two-digit block number) that contained three or more residential directory listings. The cellular sample was not list-assisted, but was drawn through a systematic sampling from dedicated wireless 100-blocks and shared service 100-blocks with no directory-listed landline numbers.

New sample was released daily and was kept in the field for at least five days. The sample was released in replicates, which are representative subsamples of the larger population. This ensures that complete call procedures were followed for the entire sample. At least 7 attempts were made to complete an interview at a sampled telephone number. The calls were staggered over times of day and days of the week to maximize the chances of making contact with a potential respondent. Each number received at least one daytime call in an attempt to find someone available. For the landline sample, interviewers asked to speak with the youngest adult male or female currently at home based on a random rotation. If no male/female was available, interviewers asked to speak with the youngest adult of the other gender. For the cellular sample, interviews were conducted with the person who answered the phone. Interviewers verified that the person was an adult and in a safe place before administering the survey. Cellular sample respondents were offered a post-paid cash incentive for their participation. All interviews completed on any given day were considered to be the final sample for that day. Weighting is generally used in survey analysis to compensate for sample designs and patterns of non-response that might bias results. A two-stage weighting procedure was used to weight this dual-frame sample. The first-stage corrected for different probabilities of selection associated with the number of adults in each household and each respondent's telephone usage patterns.<sup>5</sup> This weighting also adjusts for the overlapping landline and cell sample frames and the relative sizes of each frame and each sample.

The second stage of weighting balances sample demographics to population parameters. The sample is balanced to match national population parameters for sex, age, education, race, Hispanic origin, region

<sup>4</sup> Internet user definition includes those who access the internet on their cell phones or other mobile handheld device.

<sup>5</sup> i.e., whether respondents have only a landline telephone, only a cell phone, or both kinds of telephone.

(U.S. Census definitions), population density, and telephone usage. The Hispanic origin was split out based on nativity; U.S. born and non-U.S. born. The White, non-Hispanic subgroup is also balanced on age, education and region. The basic weighting parameters came from a special analysis of the Census Bureau's 2011 Annual Social and Economic Supplement (ASEC) that included all households in the United States. The population density parameter was derived from Census 2000 data. The cell phone usage parameter came from an analysis of the July-December 2010 National Health Interview Survey.<sup>6</sup>

Following is the full disposition of all sampled telephone numbers:

Table 2: Sample Disposition		
Landline	Cell	
33,738	22,143	Total Numbers Dialed
1,502	332	Non-residential
1,491	45	Computer/Fax
8	----	Cell phone
15,401	8,237	Other not working
2,746	404	Additional projected not working
12,590	13,126	Working numbers
<b>37.3%</b>	<b>59.3%</b>	<b>Working Rate</b>
915	135	No Answer / Busy
3,472	4,465	Voice Mail
66	5	Other Non-Contact
8,137	8,521	Contacted numbers
<b>64.6%</b>	<b>64.9%</b>	<b>Contact Rate</b>
523	1,382	Callback
6,161	5,654	Refusal
1,453	1,485	Cooperating numbers
<b>17.9%</b>	<b>17.4%</b>	<b>Cooperation Rate</b>
52	43	Language Barrier
----	498	Child's cell phone
1,401	944	Eligible numbers
<b>96.4%</b>	<b>63.6%</b>	<b>Eligibility Rate</b>
50	41	Break-off
1,351	903	Completes
<b>96.4%</b>	<b>95.7%</b>	<b>Completion Rate</b>

<sup>6</sup> Blumberg SJ, Luke JV. Wireless substitution: Early release of estimates from the National Health Interview Survey, July-December, 2010. National Center for Health Statistics. June 2011.

11.1%	10.8%	Response Rate
-------	-------	---------------

The disposition reports all of the sampled telephone numbers ever dialed from the original telephone number samples. The response rate estimates the fraction of all eligible respondents in the sample that were ultimately interviewed. At PSRAI it is calculated by taking the product of three component rates:

- Contact rate – the proportion of working numbers where a request for interview was made
- Cooperation rate – the proportion of contacted numbers where a consent for interview was at least initially obtained, versus those refused
- Completion rate – the proportion of initially cooperating and eligible interviews that were completed

Thus the response rate for the landline sample was 11 percent. The response rate for the cellular sample was 11 percent.

# Exhibit 2



Text Message Spam. Difficult to Stop, Is a Growing Menace -...

<http://www.nytimes.com/2012/04/08/technology/text-message-...>**The New York Times** Reprints

This copy is for your personal, noncommercial use only. You can order presentation-ready copies for distribution to your colleagues, clients or customers here or use the "Reprints" tool that appears next to any article. Visit [www.nytreprints.com](http://www.nytreprints.com) for samples and additional information. Order a reprint of this article now.



April 7, 2012

## Spam Invades a Last Refuge, the Cellphone

By NICOLE PERLROTH

Text message spam has started waking Bob Dunnell in the middle of the night, promising cheap mortgages, credit cards and drugs. Some messages offer gift cards to, say, Walmart, if he clicks on a Web site and enters his Social Security number.

Once the scourge of e-mail providers and the Postal Service, spammers have infiltrated the last refuge of spam-free communication: cellphones. In the United States, consumers received roughly 4.5 billion spam texts last year, more than double the 2.2 billion received in 2009, according to Ferris Research, a market research firm that tracks spam.

Spread over 250 million text message-enabled phones, the problem is not as commonplace as e-mail spam. But it is a growing menace, with the potential for significant damage.

"Unsolicited text messaging is a pervasive problem," said Christine Todaro, a lawyer with the Federal Trade Commission, the consumer watchdog agency, which is turning to the courts for help. "It is becoming very difficult to track down who is sending the spam. We encourage consumers to file complaints, which helps us track down the spammers, but even then it is a little bit like peeling back an onion."

Although some text spam is of the harmless, if annoying, marketing variety, a vast majority is more insidious, experts say. With one mobile tap, smartphone users risk signing up for a bogus, impossible-to-cancel service.

Or they may succumb to that offer for a Walmart gift card or a free iPhone in exchange for taking a survey and divulging all sorts of personal information, like their addresses or their transaction history — which can then be sold to digital marketers or even used to crack their bank accounts.

And, so far, it is hard to stop it. Even replying to unwanted messages with "NO" or "STOP" — the usual method for unsubscribing from an unwanted text message list — may only

verify to spammers that you have a working number that can then be resold.

Scrambling to get a better grasp on the problem, the mobile industry last month joined with a maker of antis spam software, Cloudmark, on a new reporting service that lets users forward mobile spam to “7726,” a number that spells SPAM on most keypads. Carriers will then use that information to block numbers.

Mobile spam is illegal under two federal laws — the 2003 Can Spam Act and the Telephone Consumer Protection Act, which set up the Do Not Call Registry in 2003. Smartphone users can report numbers that spam comes from on both the Web sites of the F.T.C. and the Federal Communications Commission. The major wireless carriers — AT&T, Sprint, T-Mobile, Bell Mobility and Verizon Wireless — all also offer ways to report the numbers on their Web sites and can block numbers. A number of apps for Android phones also promise enhanced spam text filtering.

Spammers, though, are endlessly inventive. Mobile carriers and filtering software can detect when a large volume of spam is sent from one phone number, and when the texts try to get someone to click on a Web site.

So spammers are turning to large banks of phone numbers, regularly changing the Web sites they try to get consumers to click, and blasting their messages from the Internet using “over the top messaging systems,” which let them send millions of messages cheaply. The minute a carrier blocks one number, spammers simply start using another.

“It seems this is all coming from different sources,” said Mr. Dunnell, a financial security consultant in St. Louis, who reported some texts he received on the F.T.C.’s Web site and signed up for the Do Not Call list — to no avail. “I don’t know what good blocking one number will do.”

Spam on social media and instant-messaging services is also a problem, and there is more of it than of mobile spam, experts say, although security firms do not keep comprehensive figures. But the filtering technologies are more sophisticated.

As of last October, Facebook said it had blocked 220 million malicious links from a total of a trillion links clicked on Facebook a day.

Mobile spam, a more recent trend, is growing faster partly because spammers can blast their messages across providers, which share technologies; they have to customize for each instant-messaging provider and social media platform.

Legal remedies may provide some help against mobile spam. Verizon has brought 20 lawsuits against wireless telemarketers and spammers, most of which have been settled.

The F.T.C. tried its first mobile spam case in February 2011 against Phillip A. Flora of Huntington Beach, Calif., accusing him of sending more than five million text messages over a 40-day period at a “mind-boggling” rate of 85 a minute, according to court documents.

Prosecutors said Mr. Flora was draining users’ allotted text message limits, which cost them money, and blasting messages at all hours of the night. The number of anyone who verified it by replying to the text message was sold to marketers.

The federal complaint against Mr. Flora said he charged \$300 for every 100,000 text messages he sent — on top of what he made from selling cellphone numbers to third parties.

Mr. Flora settled the charges for \$32,000 and agreed to cease sending spam texts. His lawyer, Michael A. Thurman, said his client “did not realize what he was doing was in violation of the law.”

Text spam that tries to get consumers to reveal their personal information is similar to the e-mail frauds known as “phishing.” In the mobile context, these spams are known as “smishing.”

One of the two most common mobile spam messages last month, according to Cloudmark, the antispam software maker, was the “Need Cash Now” spam, in which users were promised quick cash if they disclosed personal and financial tidbits about themselves, which could be used to gain access to a bank account. The other was a gift card swindle, which lured users into taking a survey, in many cases on a spoofed Web site, and answering questions about their salary, debt levels, marital status and health history.

“Attackers gain multiple layers of revenue from that information,” said Rachel Kinoshita, Cloudmark’s head of security operations. “They amass a 360-degree view of their target and can sell that information to marketers or just phish their bank accounts.”

Spammers can make a tidy profit blasting tens of thousands of messages at once. They use computers to generate millions of possible number combinations and then send messages to those addresses without knowing whether they have dialed a working number.

“If there weren’t so much money to be made here, spammers would simply go away,” Ms. Kinoshita said.

Text Message Spam, Difficult to Stop, Is a Growing Menace -...

<http://www.nytimes.com/2012/04/08/technology/text-message-...>

And of course smishing costs victims who do not have unlimited text message plans. Getting as few as 10 a month at 20 cents each would cost \$24 more a year.

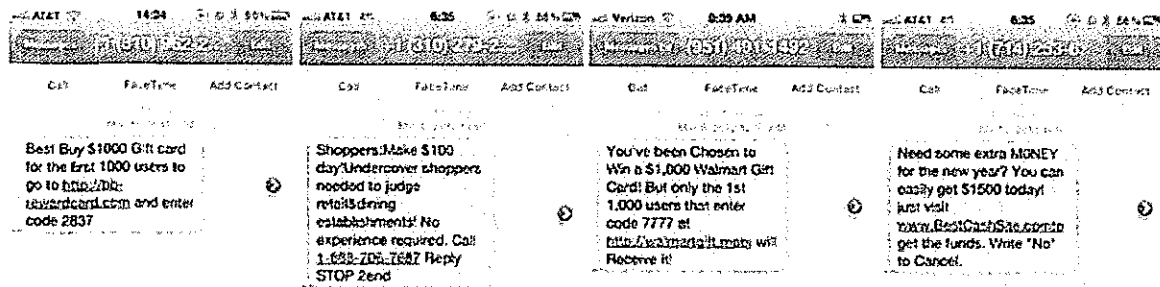
Mr. Dunnell has considered changing his cellphone number but concluded it would be too disruptive. "I just wish there was a better way to deal with this," he said.

World - Image - NYTimes.com

http://www.nytimes.com/imagepages/2012/04/08/world/SPAM...

The New York Times

April 8, 2012



Replying "NO" or "STOP" to text spam may only verify to spammers that you have a working number that can then be resold.

Close Window

Copyright 2012 The New York Times Company

# Exhibit 3

(Filed Under Seal)

# Exhibit 4

**COPY OF TRANSCRIPT**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

JESSICA LEE, individually and  
on behalf of a class of similarly  
situated individuals,

Plaintiff,

vs.

Case No. CV 11-00043-RS

Hon. Richard Seeborg

STONEBRIDGE LIFE INSURANCE  
COMPANY, a Vermont corporation,  
and TRIFECTA MARKETING GROUP,  
a Florida limited liability  
company,

Defendants.

~~~~~

**DEPOSITION OF ALOIS RUBENBAUER**

~~~~~

TAKEN AT:	The Offices of Thacker + Co. 50 West Broadway, Suite 900 Salt Lake City, Utah
DATE:	Thursday, August 9, 2012
TIME:	10:11 a.m.
REPORTED BY:	Scott M. Knight, RPR

**THACKER+CO**

50 West Broadway, Suite 900, Salt Lake City, Utah 84101  
801-983-2180 Toll Free: 877-441-2180 Fax: 801-983-2181



Alois Rubenbauer

8/9/2012

[2]

## A P P E A R A N C E S

## FOR PLAINTIFF:

JOHN C. OCHOA, ESQ.,  
 BRADLEY BAGLIEN, ESQ.,  
 EDELSON MCGUIRE, LLC  
 350 North LaSalle, Suite 1300  
 Chicago, Illinois 60654

## FOR DEFENDANT TRIFECTA MARKETING GROUP:

LISA R. CROWLEY, ESQ.  
 4770 Pace Drive  
 Park City, Utah 84098

## FOR DEFENDANT STONEBRIDGE LIFE INSURANCE COMPANY:

TIFFANY CHEUNG, ESQ.,  
 MORRISON FOERSTER  
 425 Market Street  
 San Francisco, California 94105-2482

JILL A. HANDLEY, ESQ.,  
 AEGON  
 4333 Edgewood Road NE, MS #2520  
 Cedar Rapids, Iowa 52499

\* \* \*

## I N D E X

WITNESS	Page
ALOIS RUBENBAUER	
EXAMINATION	4
BY-MR.OCHOA	
EXAMINATION	100
BY-MS.CHEUNG	
FURTHER EXAMINATION	114
BY-MR.OCHOA	
FURTHER EXAMINATION	114
BY-MS.CHEUNG	
FURTHER EXAMINATION	115
BY-MR.OCHOA	

\* \* \*

Alois Rubenbauer

8/9/2012

[3]

## E X H I B I T S

	No.	Description	Page
1			
2			
3	35	Plaintiff's first Set of Document Requests to Defendant Trifecta Marketing Group, LLC	18
4	36	Plaintiff's First Set of Interrogatories to Defendant Trifecta Marketing Group, LLC	25
5	37	E-mail from Martine Yaldor to John Ochoa, April 26, 2012, and related e-mails	30
6	38	Letter of Conveyance	40
7	39	E-mail from Alois Rubenbauer to Ryan VanHorn, October 29, 2010	52
8	40	PBX-Change invoice, October 19, 2010	54
9	41	PBX-Change invoice, October 20, 2010	57
10	42	PBX-Change invoice, November 11, 2010	58
11	43	Color photograph	60
12	44	Call Center Qualification Questionnaire	61
13	45	E-mail from Monica Leach to various recipients, December 22, 2010	71
14	46	Call-Back Agreement	74
15	47	E-mail from Marci Evans to Brad Terry, October 18, 2010, and related e-mails	79
16	48	Legal Review #-19574491	83
17	49	E-mail from Alois Rubenbauer to Ryan VanHorn, November 11, 2010, and related e-mails	85
18	50	Stonebridge Recording with "Jessica Lee"	88
19			
20			
21			
22			
23			
24			
25			

Alois Rubenbauer

8/9/2012

[10]

1 Q When was the car accident?

2 A 2008.

3 Q Okay. Did that happen in Florida or New York?

4 A Florida.

5 Q Okay. When did you start working for Trifecta  
6 Marketing Group?

7 A When it was formed. I don't remember those dates,  
8 though.

9 Q Okay. Can you remember approximately when  
10 Trifecta--

11 A 2010.

12 Q Okay. One thing: When I'm in the middle of  
13 asking a question, wait for me to finish asking the question  
14 before you give an answer--

15 A Okay.

16 Q --just to clean up the record, because when you  
17 read it on the transcript, it might not look right if you  
18 don't wait, okay?

19 A Understood.

20 Q Okay. So did you say that you started up Trifecta  
21 Marketing Group sometime in 2008? Is that right?

22 A I didn't start it up. I started working for  
23 Trifecta Marketing Group in 2010, I said.

24 Q Okay. 2010. Who founded Trifecta Marketing  
25 Group?

Alois Rubenbauer

8/9/2012

[11]

1 A Corporations. I don't recall the names of them.

2 Q Were there any individuals involved in the  
3 formation of Trifecta Marketing Group?

4 A They were owned by corporations. So the  
5 individuals who owned the corporations I don't know. I know  
6 the names of the corporations.

7 Q Okay. What are the names of the corporations?

8 A Xcel Direct and Q1 Data were the forming  
9 companies.

10 Q Do you know the names of the individuals who were  
11 principals at those two companies?

12 A I don't know who the principals of the  
13 corporations are, to be honest with you.

14 Q Okay. Who was the president of Trifecta Marketing  
15 Group when you started working there?

16 A I was the president. They hired me as the  
17 president.

18 Q What other people were in management positions at  
19 Trifecta Marketing Group in 2010 when you started?

20 A Curt Herrington.

21 Q Could you spell that last name?

22 A No.

23 Q Okay. What was his position when you--in 2010?

24 A He was one of the principals.

25 Q Was there anyone else?

Alois Rubenbauer

8/9/2012

[12]

1 A Mark Lyon.

2 Q And he's a principal also; is that right?

3 A I don't know, but he was one of the founders, so  
4 he--they hired me.

5 Q Okay. And where was Curt Herrington located at  
6 that time?

7 A New York.

8 Q Okay. And where was Mark Lyon located in--

9 A California.

10 Q And how did you first--what was your first meeting  
11 with Curt Herrington?

12 A He's my uncle.

13 Q So did he approach you about the job or did you  
14 approach him?

15 A It was a joint discussion.

16 Q Okay. And what kind of business was Trifecta  
17 Marketing Group doing in 2010?

18 A Outsourced call center-related projects.

19 Q What do you mean when you say "outsourced call  
20 center projects"?

21 A We were contracted to do work for companies.

22 Q I see. And what was your position at Trifecta  
23 in--

24 A President.

25 Q --2010? Was there a vice president?

Alois Rubenbauer

8/9/2012

[13]

1 A No.

2 Q Did Curt Herrington have a formal title?

3 A Not that I recall.

4 Q Did Mark Lyon have a formal title?

5 A Not that I recall. They were principals.

6 Q How many employees did Trifecta Marketing Group  
7 have in 2010?

8 A I don't remember.

9 Q Do you remember approximately how many?

10 A No. Be lying if I told you.

11 Q Were there any other employees at Trifecta in 2010  
12 that you can remember by name?

13 A First names, maybe.

14 Q Okay. That's--that's fine.

15 A I know a few of them.

16 Q Okay.

17 A Jennifer and John. I just don't remember their  
18 last names.

19 Q And when you started at Trifecta, were you living  
20 in New York or in Florida?

21 A I moved to Florida.

22 Q Okay. Did Trifecta Marketing Group have offices  
23 in Florida?

24 A Yes.

25 Q Did Trifecta Marketing Group have offices in New

Alois Rubenbauer

8/9/2012

[28]

1 A Contract call center work.

2 Q What kind of work specifically were they doing?

3 A That's privileged.

4 Q That information is not privileged. It's relevant  
5 to this lawsuit, and you're going to have to answer the  
6 question.

7 A I don't know how to answer that question, so I  
8 don't feel comfortable answering it.

9 MR. OCHOA: Could you read that question back  
10 again, please?

11 (The last following was read:

12 "Q What kind of work specifically were they  
13 doing?")

14 BY MR. OCHOA:

15 Q Okay. What kind of work specifically were the  
16 call centers that were operated by Trifecta Marketing Group  
17 doing in 2010?

18 A I don't know how to answer that question. Not  
19 going to answer that question.

20 MR. OCHOA: Can we take a break really quick?  
21 (A discussion was held off the record.)

22 MR. OCHOA: Can we go back on the record?

23 Could you reread the last question, please?

24 (The last question was read.)

25 THE WITNESS: Marketing. Inbound calls.

Alois Rubenbauer

8/9/2012

[29]

1 (Cell phone interruption.)

2 BY MR. OCHOA:

3 Q Were the employees at the call centers reading  
4 scripts when they received inbound calls?

5 A I don't recall.

6 Q Do you recall what they were saying when the calls  
7 were answered?

8 A I don't recall.

9 Q Do you recall any products that were being  
10 marketed as a--

11 A I don't recall.

12 Q Can you wait for me to finish the question first?

13 A Sure.

14 Q Do you recall what kind of products were being  
15 marketed as a result of inbound calls?

16 A I don't recall.

17 Q Do you recall whether Trifecta Marketing Group was  
18 marketing gift cards in response to inbound calls?

19 A I don't recall.

20 Q Do you remember if Trifecta Marketing Group was  
21 marketing Stonebridge Life Insurance products as a result of  
22 inbound calls?

23 A Yes.

24 Q And were they promoting Stonebridge Life Insurance  
25 products?



Alois Rubenbauer

8/9/2012

[30]

1 A No.

2 Q What was Trifecta doing in connection with  
3 Stonebridge Life Insurance?

4 A Lead generation.

5 Q What does that mean in the industry?

6 A I don't know the definition of lead generation  
7 other than creating a lead for a company.

8 Q If you're trying to explain to someone what lead  
9 generation is, how would you explain that?

10 A Okay. Well, ABC law firm is looking to create  
11 cases. They hire XYZ marketing company to go out there and  
12 find them cases for law firms. Is that a good enough  
13 definition?

14 Q I think so. Was Trifecta Marketing Group  
15 generating leads for any other companies in 2010?

16 A Not that I recall.

17 MR. OCHOA: Could you mark this as Exhibit No. 37?  
18 Exhibit-37 marked

19 THE WITNESS: Thank you.

20 BY MR. OCHOA:

21 Q Would you just take a minute and look at the first  
22 page of this document--

23 A Okay.

24 Q --right below the line that says "Forwarded  
25 message."

Alois Rubenbauer

8/9/2012

[31]

1 A Uh-huh (Affirmative).

2 MS. CHEUNG: Before you enter a certain line of  
3 questioning, let me just get an objection on the record--

4 MR. OCHOA: Sure.

5 MS. CHEUNG: --because Stonebridge has never seen  
6 these documents before today. There's not a Bates label at  
7 the bottom of them, although I understand from plaintiff's  
8 counsel that they were produced in another case, not this  
9 one, by a third party that has not been subpoenaed in this  
10 case, Jessica Lee vs. Stonebridge. So the relevance of  
11 these documents, I'm going to object to the extent they're  
12 not relevant, and also object to the extent we haven't had  
13 an opportunity to review them and are not prepared to  
14 examine at the time.

15 MR. OCHOA: And if--Tiffany, if you want a  
16 chance--we can take a break. If you want to take a chance  
17 to review the document before I start asking questions, that  
18 would be fine.

19 THE WITNESS: I'd like Alex to review them before  
20 I answer any questions, I want to be honest with you.

21 BY MR. OCHOA:

22 Q Well, you have a lawyer here that is looking at  
23 the document as well.

24 A Okay.

25 Q She can review the document.

Alois Rubenbauer

8/9/2012

[50]

1 2010?

2 A I remember the name of the person. I didn't  
3 remember the company name.

4 Q Okay.

5 A Do remember the person, though.

6 Q What is the name of that person?

7 A Ryan VanHorn. I remember that name.

8 Q And is he an employee for ModernAd Media?

9 A I assume so.

10 Q And what did he do for ModernAd Media, if you  
11 know?

12 A From this or from what I know?

13 Q From what you know.

14 A He was an account manager for me.

15 Q How often did you speak with Ryan in 2010?

16 A Once in a while. I don't know. I couldn't tell  
17 you how many times.

18 Q Okay. What did you talk about with him?

19 A Marketing.

20 Q Okay. What type of marketing specifically did you  
21 talk about?

22 A A variety of different types, to be honest.

23 Q Did you talk with him about SMS marketing?

24 A Yes.

25 Q Okay. And when I say "SMS marketing," I'm

Alois Rubenbauer

8/9/2012

[51]

1 referring to marketing via text message. Do you understand  
2 that?

3 A Yes.

4 Q Okay. And did Trifecta Marketing Group use SMS in  
5 their marketing efforts?

6 A Yes.

7 Q In what way did Trifecta use SMS in the marketing  
8 efforts?

9 A I don't know if I understand that. What do you  
10 mean?

11 Q Like how did Trifecta use text messages in its  
12 marketing? What was the purpose of the text messages?

13 A Well, we personally didn't text-message or do text  
14 messaging. We contracted with companies--

15 Q Okay.

16 A --to market various different products.

17 Q Okay. Can you explain how the text messages would  
18 help market those products for Trifecta?

19 A It would be like an ad.

20 Q Uh-huh (Affirmative).

21 A That would be the best explanation I could give.

22 Q Okay. What would the text messages say?

23 A I don't remember that.

24 Q How would someone who received a text message get  
25 in touch with Trifecta?

Alois Rubenbauer

8/9/2012

[52]

1 A Call.

2 Q Would they call one of the toll-free telephone  
3 numbers that Trifecta controlled?

4 A Sometimes.

5 Q Now, what do you mean when you say "sometimes"?

6 A Well, sometimes they would call from a toll-free  
7 number--

8 Q Okay.

9 A --that we controlled, yes.

10 Q Did the toll-free telephone number appear in the  
11 text message?

12 A I don't know.

13 Q Okay. And you said that sometimes they would call  
14 Trifecta. What were the other ways that they would get in  
15 contact with Trifecta?

16 A They would respond to e-mails and stuff like that.

17 Q Uh-huh (Affirmative). Okay.

18 MR. OCHOA: Can you mark this as Exhibit 39,  
19 please?

20 Exhibit-39 marked

21 BY MR. OCHOA:

22 Q Okay. I've handed you what's been marked  
23 Exhibit 39. If you could take a minute--

24 A This one's not marked the way it needs to be.

25 Q It's marked up here (Indicating).

Alois Rubenbauer

8/9/2012

[53]

1 A Oh, I didn't see that.

2 Q No problem.

3 Okay. I've handed you what's been marked  
4 Exhibit 39. Would you take a minute to review this.

5 A I see it.

6 Q And what does this look like to you?

7 A Directions.

8 Q Is this an e-mail?

9 A Yes.

10 Q Okay. In the "From" line is that your name in the  
11 "From" line of the e-mail?

12 A Yes.

13 Q And it says "To: Ryan VanHorn"?

14 A Yes.

15 Q Is that Ryan VanHorn who works at ModernAd Media?

16 A I would assume so.

17 Q And if you could take a minute to just look at the  
18 body of that text--of that e-mail.

19 A Okay. I did.

20 Q Okay. What's the purpose of this e-mail?

21 A Directions on hours of operation.

22 Q Okay. Why would Ryan need to know the hours  
23 that--well, what is it referring to? The hours of what?

24 A Just doesn't say.

25 Q Okay. Take the first line. Says, "Ryan, we have

Alois Rubenbauer

8/9/2012

[56]

1 Q Okay.

2 A Looks like it was paid.

3 Q If someone at Trifecta paid the bill, who would  
4 have been the person at Trifecta to pay it?

5 A Curt.

6 Q That's Curt Herrington, correct?

7 A Correct.

8 Q And what is this an invoice for?

9 A A phone bill.

10 Q Okay. Now, in the--in the table below there are  
11 lists of telephone numbers?

12 A Uh-huh (Affirmative).

13 Q Are those telephone numbers that Trifecta used?

14 A I don't recall.

15 Q Okay. Do you recognize those as toll-free  
16 telephone numbers?

17 A Looks like they are.

18 Q Okay. And looks like there's an amount on the  
19 right--the far right side--

20 A Yes.

21 Q --of the table. Do you know what that amount is  
22 referring to?

23 A Usage. I have no idea.

24 Q Have you ever seen an invoice that looks like this  
25 before?

Alois Rubenbauer

8/9/2012

[57]

1 A Have I ever seen an invoice or this invoice?

2 Q Or invoice that looks like this?

3 A No.

4 Q Okay. But just to confirm, that is Trifecta's  
5 name on the top, where it says "Accounts payable"?

6 A Correct.

7 Q Okay. And based on what you looked at on the  
8 second page, it looks like this invoice was paid, correct?

9 A Correct.

10 Q Okay.

11 A It's what it looks like to me.

12 Q Okay.

13 MR. OCHOA: Would you mark this one, please.

14 Exhibit-41 marked

15 MS. CHEUNG: Forty-one?

16 MR. OCHOA: Exhibit 41, yes.

17 MS. CHEUNG: Exhibit 41. Okay. Same objection  
18 with respect to this document that I had on Exhibit 40 and  
19 the others.

20 BY MR. OCHOA:

21 Q Can you take a minute and review this document?

22 A Yes, I did.

23 Q Okay. What is this document?

24 A An invoice.

25 Q Okay. The top of this invoice, where it says,



Alois Rubenbauer

8/9/2012

[58]

1 "Accounts payable"--

2 A Yes.

3 Q --is that the name and address of Trifecta  
4 Marketing Group?

5 A Yes.

6 Q Okay. Is that the address of the call center in  
7 Florida?

8 A Yes.

9 Q If you could turn to the second page of the  
10 invoice and just review it for a second.

11 A Okay.

12 Q Does it look like this invoice was paid?

13 A Yes.

14 MR. OCHOA: Could you mark this one, please?  
15 Exhibit-42 marked

16 MS. CHEUNG: Exhibit No. 11--42? Is that the  
17 exhibit number?

18 MR. OCHOA: Yes.

19 MS. CHEUNG: Same objection to this document as  
20 the objection asserted for Exhibits 41 and 40.

21 BY MR. OCHOA:

22 Q Can you take a minute and review this?

23 A Yeah, I just did.

24 Q What is this document?

25 A Invoice.

Alois Rubenbauer

8/9/2012

[59]

1 Q Okay. Was this an invoice to Trifecta Marketing  
2 Group?

3 A Yes.

4 Q Is the address on the top of this where it says  
5 "Accounts payable" the address of Trifecta Marketing Group's  
6 call center in Florida?

7 A Yes.

8 Q If you could turn to the fourth page of this  
9 document, the next-to-last--

10 A Yes.

11 Q --page. If you look about midway down, there's a  
12 row there and there's--underneath, in bold, where it says,  
13 "Phone Number," there's words that say, "Wam Media Group,"  
14 W-a-m. Do you see that?

15 A Yes.

16 Q Do you know what Wam Media Group is?

17 A I don't recall.

18 Q And in the row immediately below that, it says,  
19 "Around the World Printing"?

20 A Okay.

21 Q Have you ever heard of that before?

22 A I don't recall.

23 Q Okay. If you can look all the way at the bottom  
24 of this page--

25 A Yeah.

Alois Rubenbauer

8/9/2012

[66]

1 in layman's terms would you explain what a marketing  
2 creative is?

3 A An ad.

4 Q Do you know where an ad like this would appear?

5 A Various different places.

6 Q For example?

7 A Banner ad on the Internet.

8 Q Uh-huh (Affirmative).

9 A E-mail.

10 Q Okay. Would an ad like this appear in a text  
11 message?

12 A It's possible.

13 Q Did ModernAd Media do any banner ads for you?

14 A I don't recall that.

15 Q Did ModernAd Media do any text message marketing  
16 for you?

17 A I don't recall.

18 Can we take a break for a second?

19 Q Sure, that's fine.

20 (Recess taken, 12:15-12:16 p.m.)

21 MR. OCHOA: Okay. We can get started again.

22 BY MR. OCHOA:

23 Q All right. Do you know what a short code is?

24 A Yes.

25 Q What's a short code?

Alois Rubenbauer

8/9/2012

[67]

1 A It's a mechanism used to transmit a text message.

2 Q Okay. Do you know what a long code is?

3 A No.

4 Q Okay. Did Trifecta Marketing Group transmit text  
5 messages in its marketing efforts?

6 A No.

7 Q Did Trifecta Marketing Group hire other people to  
8 send text messages for its marketing efforts?

9 A Yes.

10 Q And if someone received a text message on behalf  
11 of Trifecta, how would that person contact Trifecta?

12 A They would call.

13 Q Okay. Would they call the telephone number that  
14 appeared in the text message?

15 A Correct.

16 Q And did those telephone numbers connect to  
17 Trifecta's call centers in Florida?

18 A Yes.

19 Q Okay. Thank you. Would Trifecta Marketing Group  
20 use toll-free numbers in the text messages?

21 A Trifecta Marketing Group didn't text-message.

22 Q Would companies whose--on--strike that. When a  
23 company sends a text message on behalf of Trifecta in its  
24 marketing, would a toll-free number appear in that message?

25 A Sometimes.

Alois Rubenbauer

8/9/2012

[70]

1 Q Would Trifecta keep recordings of the calls  
2 themselves or would they outsource that to another company?

3 A I don't--don't--it was either outsourced or  
4 on-site. I don't remember.

5 Q And when an inbound call would be received by one  
6 of Trifecta's call centers, would the operator read a script  
7 to the caller?

8 A Depending on what the call was for.

9 Q Okay. So some companies would require Trifecta to  
10 read scripts; is that correct?

11 A Correct.

12 Q Okay. And when a company told Trifecta to read a  
13 script as part of its marketing, would Trifecta read that  
14 script?

15 A If it were working for the company, yes.

16 Q Why--why did you listen in on calls from time to  
17 time at the call center?

18 A Make sure people were doing their job correctly.

19 Q Okay. And if their job required them to read a  
20 script, would you make sure they were following the script?

21 A Yes.

22 Q Would you require them to follow the script  
23 exactly?

24 A Yes.

25 Q Okay. Thank you. Can you remember now any

Alois Rubenbauer

8/9/2012

[71]

1 products that were sold out of Trifecta's call centers in  
2 Florida?

3 A No.

4 MR. OCHOA: Could you mark this, please?  
5 Exhibit-45 marked

6 BY MR. OCHOA:

7 Q Okay. I've handed you what's just been marked  
8 Exhibit 45. Could you take some time to review that,  
9 please?

10 A Okay. I did.

11 Q Okay. What is this document?

12 A It's an e-mail.

13 Q Okay. Who is it from?

14 A Monica Lee.

15 Q Okay. Do you know who Monica Lee is?

16 A Leach. I don't know if I'm pronouncing that.

17 Leach. Leash.

18 Q I'm not sure how it's pronounced.

19 A Okay.

20 Q Do you recognize that name?

21 A No, I don't recall her.

22 Q Okay. In the "To" field of this e-mail, that  
23 first e-mail, "Al"--

24 A Yeah.

25 Q --is that your e-mail?

Alois Rubenbauer

8/9/2012

[94]

1 Q Are you aware of how text messages were physically  
2 transmitted on behalf of Trifecta?

3 A I was told by short code.

4 Q Okay. Who told you that?

5 A Our vendors or the people we bought the marketing  
6 dollars to--paid the marketing dollars to.

7 Q Who were those specific vendors?

8 A There was a couple of them. I don't remember  
9 their names.

10 Q Okay. So you don't remember their names?

11 A No.

12 Q But you remember that they told you they only used  
13 short code; is that correct?

14 A Correct.

15 Q Do you remember where those companies were  
16 located?

17 A No.

18 Q Do you remember if Trifecta ever offered gift  
19 cards as a result of inbound calls to their call centers?

20 A I don't recall.

21 Q I want to talk a little bit about Trifecta's work  
22 for Stonebridge specifically.

23 A Okay.

24 Q You had testified earlier that Trifecta was hired  
25 to generate leads for Stonebridge; is that correct?

Alois Rubenbauer

8/9/2012

[95]

1 A Correct.

2 Q Do you know what the purpose of those leads were?

3 A I don't remember.

4 Q Okay.

5 A I--I know they were leads for insurance of some  
6 sort. I don't remember what kind.

7 (Reporter/witness discussion to clarify the record.)

8 BY MR. OCHOA:

9 Q Do you recall whether Trifecta used its call  
10 center in Florida to generate leads for Stonebridge?

11 A Yeah, I do recall that that's where we did the  
12 lead generation.

13 Q Okay. And those--that call center in Florida  
14 received calls as a result of inbound calls; is that right?

15 A One of the methods, yes.

16 Q How else would they receive inbound calls?

17 A What do you mean?

18 Q Well, you said--

19 Can you read back my question right before that  
20 one?

21 (The following was read:

22 "Q Okay. And . . . that call center in Florida  
23 received calls as a result of inbound calls; is that right?

24 "A One of the methods, yes.

25 "Q How else would they receive inbound calls?")



Alois Rubenbauer

8/9/2012

[96]

1 THE WITNESS: So that's what I'm saying. It  
2 doesn't make sense. You didn't ask a question how they  
3 received inbound calls.

4 BY MR. OCHOA:

5 Q I do that sometimes. So I'll try to clean up the  
6 question. Other than receiving inbound calls, did the  
7 employees at Trifecta's call center market products any  
8 other way?

9 A Yes.

10 Q How else would they do that?

11 A I don't recall, but there was many methods used.

12 Q Okay. And you can't--you can't remember how they  
13 might have done that?

14 A No, not off the top of my head. I'd have to look  
15 at notes, see if I have any information on it.

16 Q Okay. Do you have notes anywhere?

17 A I'd have to look. I don't know. Same way I  
18 discovered to see if I had e-mails.

19 Q Where would you keep notes if you had any?

20 A I would keep them on my computer. But I don't  
21 think so because that computer's been long gone.

22 Q Okay. So can you remember how--do you remember--  
23 strike that. Do you remember whether Stonebridge products  
24 were promoted as a result of inbound calls on toll-free  
25 telephone numbers?

Alois Rubenbauer

8/9/2012

[97]

1           A     So let me make sure I understand the question  
2     before I answer it.

3           Q     Okay.

4           A     Do I remember if we generated leads for  
5     Stonebridge on inbound phone calls?

6           Q     Yeah, that's a fair question.

7           A     Yes.

8           Q     Okay. And did Trifecta sometimes generate inbound  
9     calls through telephone numbers that appeared in text  
10    messages?

11          A     Possibly.

12          Q     Did it sometimes do that?

13          A     Not really that much, no, because--let me explain  
14    to you the dynamic of it when you buy marketing on that, so  
15    you understand it, because you keep asking the same  
16    question.

17          Q     Sure.

18          A     So maybe I can clear it up a little bit. When we  
19    bought the marketing, they would want to track the calls  
20    that were sent to us, because we paid them on a per-call  
21    basis.

22          Q     Uh-huh (Affirmative).

23          A     Whenever we bought marketing, we gave them a  
24    toll-free number. It was routed to a phone number that they  
25    provided first, and then from there it was forwarded to our

Alois Rubenbauer

8/9/2012

[98]

1 number. And then they would match their reports against our  
2 reports, and that's how they would figure out the billing.

3 Q All right. Let me try to break that down a little  
4 bit. You said they would provide a number first?

5 A A company that we provided to do text messaging  
6 and marketing. I'm just using a broad term because I don't  
7 know which companies they were.

8 Q Okay.

9 A They wouldn't provide a number. We would give  
10 them a number to transfer calls to.

11 Q I see. Okay. So Trifecta would provide the  
12 telephone numbers?

13 A Correct. But theoretically it might not be the  
14 number that's marketed, because there was a number of times  
15 through our marketing efforts that we've gotten phone calls  
16 or we've seen marketing, "Hey, is this you guys?"

17 "That's not us. That number doesn't look  
18 familiar."

19 And then we'd call it. It would ring to our call  
20 center. That's how we figured out that--the reporting and  
21 that's how they matched up the report.

22 Q I see. So some companies--some clients that you  
23 had would use their own telephone numbers, they would route  
24 it to your call centers?

25 A Correct.

Alois Rubenbauer

8/9/2012

[99]

1 Q And that's because--

2 A They would forward them to--they would be  
3 basically through their phone system, forward them to our  
4 phone system.

5 Q I see. So they had a contract with Trifecta--

6 A Correct.

7 Q --Marketing? I understand. Okay. Thank you.

8 But any toll-free telephone numbers that were  
9 owned by Trifecta, if someone called that number, would that  
10 lead back to Trifecta's call center?

11 A It would, but a lot of--in a lot of the instances  
12 that number wouldn't appear on the marketing material.

13 Q I understand.

14 A We bought blocks of them, and there was affiliates  
15 we worked with in various different campaigns.

16 Q I'm not asking about these other phone numbers--

17 A Okay.

18 Q --that route. I'm just asking about the ones that  
19 Trifecta owned.

20 A Yeah.

21 Q So if you called--and ignore those other ones--so  
22 if you called a number that Trifecta owned, it would lead to  
23 Trifecta's call center; is that correct?

24 A Depending on what the number is.

25 Q Okay. Can you explain that?

Alois Rubenbauer

8/9/2012

[100]

1           A     Some numbers--some numbers led to my personal cell  
2     phone.

3           Q     I see.

4           A     See what I mean?

5                     MR. OCHOA: Got it. I don't think I have any  
6     other questions right now.

7                     MS. CHEUNG: Okay. Could we just take a quick  
8     break?

9                     MR. OCHOA: Sure. That's fine.

10                    (Recess taken, 1:10-1:24 p.m.)

11     EXAMINATION

12     BY-MS.CHEUNG:

13           Q     Mr. Rubenbauer?

14           A     Yes.

15           Q     I'm Tiffany Cheung, again. I represent  
16     Stonebridge Life Insurance Company. And I wanted to ask you  
17     a few questions.

18           A     Okay.

19           Q     You had, I believe, testified earlier about, you  
20     know, generally speaking, what services Trifecta performed  
21     for Stonebridge Life Insurance Company?

22           A     Uh-huh (Affirmative).

23           Q     Do you remember that, generally?

24           A     Generally, yeah.

25           Q     Did Trifecta ever sell any insurance products to

Alois Rubenbauer

8/9/2012

[101]

1 any callers--

2 A No.

3 Q --who called in?

4 A I'm sorry. I thought you were done.

5 Q That's all right.

6 A Getting used to this. Hopefully I don't have to.

7 Q I know. It's hard to know when someone's  
8 completely done, so I sympathize. But let me start over.

9 So did Trifecta ever sell any of Stonebridge's  
10 insurance products to any callers who called in to the  
11 calling center?

12 A No.

13 Q And you had testified that you performed lead  
14 generation services for Stonebridge; is that correct?

15 A Yes.

16 Q And in connection with lead generation services,  
17 did you offer callers an opportunity to receive a call-back  
18 from Stonebridge?

19 A If that was what the requirement was, then we did.

20 Q Okay. But you don't remember specifically?

21 A I don't, no.

22 Q All right. Do you remember taking a look at the  
23 call-back agreement that we discussed earlier that Mr. Ochoa  
24 sent you? And I can tell you the exact exhibit number.

25 A Can I look at this?

Alois Rubenbauer

8/9/2012

[102]

1 MR. OCHOA: I think it's 46.

2 THE WITNESS: Okay.

3 BY MS. CHEUNG:

4 Q All right. Now, other than any services that  
5 you--that Trifecta performed in connection with this  
6 agreement, did Trifecta perform any other services for  
7 Stonebridge Life Insurance Company?

8 A No.

9 Q While you were president of Trifecta, did you run  
10 the day-to-day operations of Trifecta?

11 A Yes.

12 Q And beyond the contractual relationship that's  
13 referenced in this call-back agreement, did Stonebridge Life  
14 Insurance Company control or have any right to control  
15 Trifecta's day-to-day operations?

16 A No.

17 Q Did Stonebridge have control or any right to  
18 control the services that Trifecta provided to any other  
19 clients?

20 A No.

21 Q Did Stonebridge control or have any right to  
22 control Trifecta's management of its own employees?

23 A No.

24 Q Did Stonebridge control or have any right to  
25 control how Trifecta generated inbound calls?

Alois Rubenbauer

8/9/2012

[103]

1 A Yes.

2 Q All right. And let's just break that--that down a  
3 little bit. Now, when you talk about inbound calls, are you  
4 just talking about the fact that what--well, let's--let's be  
5 very specific. To the extent that Stonebridge had any  
6 control, is it--is it contained just within what's in the  
7 call-back agreement?

8 A No.

9 Q Okay. What do you mean by that?

10 A Any method of marketing would be prevalent to any  
11 client.

12 Q I see. Okay. So you're just talking about the  
13 fact that, you know, a client might be interested in  
14 marketing in general?

15 A Yeah, general, basically, however it's derived.

16 Q All right. Did Stonebridge, though, have a right  
17 to control how you--how you generated any marketing?

18 A No.

19 Q And did Stonebridge--for example, if Stonebridge  
20 had told you not to ever market through radio, would  
21 Trifecta have been required to follow those instructions?

22 A Yes.

23 Q With respect to all your clients?

24 A No, just Stonebridge.

25 Q All right. So--so again, whatever--to whatever



Alois Rubenbauer

8/9/2012

[106]

1 MR. OCHOA: Give me one second to find it.

2 MS. CHEUNG: Uh-huh (Affirmative).

3 THE WITNESS: This is it (Indicating).

4 MR. OCHOA: Okay. Got it.

5 BY MS. CHEUNG:

6 Q Do you have it?

7 A Yeah.

8 Q You had discussed earlier, and it looks like this  
9 is potentially a script related to Stonebridge Life  
10 Insurance Company. Do you remember that?

11 A Yes.

12 Q Do you remember ever making any revisions to this  
13 script?

14 A I don't recall.

15 Q Were the text messages that were sent for Trifecta  
16 only sent to consumers who provided prior express consent?

17 MR. OCHOA: Objection. Lack of foundation.

18 BY MS. CHEUNG:

19 Q Go ahead and answer.

20 A What was the question?

21 Q We talked about the text messages that were sent  
22 for Trifecta by other companies. Were these text messages  
23 only sent to consumers who provided prior express consent?

24 A I'm not able to answer that question, because we  
25 didn't send them.

Alois Rubenbauer

8/9/2012

[107]

1 Q So you don't know either way?

2 A Yeah.

3 Q Was it your understanding that they would be sent  
4 to only consumers who had provided prior express consent?

5 A Yes.

6 MR. OCHOA: I'm sorry. I just want to object to  
7 the last question. It calls for a legal conclusion.

8 BY MS. CHEUNG:

9 Q During the time that you performed services for  
10 Stonebridge Life Insurance Company, did you perform services  
11 for other clients?

12 A Yes.

13 Q Were other clients' products offered at the--in  
14 the same call as the Stonebridge call-back?

15 A I don't recall.

16 Q Trifecta--you had previously testified that  
17 Trifecta hired other companies to send text messages,  
18 correct?

19 A Correct.

20 Q Did Stonebridge ever supervise or direct the  
21 manner by which those text messages were sent?

22 A No.

23 Q Did Stonebridge have any control over the  
24 distribution of those text messages?

25 MR. OCHOA: Object. Lack of foundation.

Alois Rubenbauer

8/9/2012

[114]

1 first--

2 THE WITNESS: Sure.

3 MR. OCHOA: --if that's okay. Thanks.

4 (Recess taken, 1:44-1:53 p.m.)

5 FURTHER EXAMINATION

6 BY-MR.OCHOA:

7 Q I just had a couple follow-up questions.

8 A Sure.

9 Q You testified earlier that Trifecta did not send  
10 any text messages on its own but rather it hired companies  
11 on its behalf to send text messages; is that correct?

12 A Correct.

13 Q Was it your testimony that you can't recall the  
14 names of all those companies?

15 A Correct.

16 Q Okay. Can you recall any of the numbers used to  
17 send text messages by these companies?

18 A No.

19 MR. OCHOA: Okay. I have nothing else.

20 THE WITNESS: Okay.

21 MS. CHEUNG: May I ask one quick follow-up,  
22 actually?

23 FURTHER EXAMINATION

24 BY-MS.CHEUNG:

25 Q And this is related to what I'd asked before about

Alois Rubenbauer

8/9/2012

[115]

1 the callers who would call in to Trifecta's calling centers.  
2 And my question is, during the time that Trifecta performed  
3 services for Stonebridge, you had mentioned that there were  
4 other clients that Trifecta performed services for, right?

5 A Correct.

6 Q So during the time that Trifecta performed  
7 services for Stonebridge, did every caller into the call-in  
8 center get offered the Stonebridge call-back?

9 A No.

10 MS. CHEUNG: That's it.

11 MR. OCHOA: Just one follow-up.

12 FURTHER EXAMINATION

13 BY-MR.OCHOA:

14 Q How do you know that Stonebridge was not offered--  
15 how do you know that Stonebridge was not offered on every  
16 inbound call?

17 A There's a transition of scripting. Stonebridge  
18 was not considered--it wasn't the lead-in sale or the reason  
19 why the people called in.

20 Q Uh-huh (Affirmative).

21 A Every sale--there was always--there's a market  
22 avenue. Nobody was going to call--nobody called in for the  
23 Stonebridge marketing avenue.

24 Q What do you mean when you say "marketing avenue"?

25 A So like when you place--I'll just use something in

Alois Rubenbauer

8/9/2012

[116]

1 today's day: McDonald's says, you know, one-dollar  
2 hamburgers, right? You're going to McDonald's for the one-  
3 dollar hamburgers, but "I'll take a soda with that too."  
4 Stonebridge was the soda.

5 Q I see. So Stonebridge would have been offered  
6 second on the calls, or third?

7 A Theoretically, it could be any--in a different  
8 position. Who knows--it could have been second. It could  
9 have been third. I don't know.

10 MR. OCHOA: Okay. Thank you.

11 THE WITNESS: Is that it?

12 MR. OCHOA: I have nothing further.

13 MS. CHEUNG: I have nothing.

14 MR. OCHOA: Do you have anything?

15 MS. CROWLEY: No.

16 THE REPORTER: Who wanted copies?

17 THE WITNESS: Of the--today?

18 THE REPORTER: Yeah, I'm asking these guys.

19 MS. CROWLEY: I asked Alex to let me know if there  
20 was any format or--I haven't heard back, but I've got your  
21 card.

22 (A discussion was held off the record.)

23 THE REPORTER: Ms. Cheung, did you want one?

24 MS. CHEUNG: I do. And let me--let me check on--I  
25 thought maybe we arranged for something, or maybe we haven't

Alois Rubenbauer

8/9/2012

1 yet, but I would like a copy. And normal turnaround is  
2 fine.

3 (Deposition concluded at 1:55 p.m.)  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CERTIFICATE

State of Utah )  
ss.  
County of Salt Lake )

I hereby certify that the witness in the foregoing deposition was duly sworn to testify to the truth, the whole truth, and nothing but the truth in the within-entitled cause;

That said deposition was taken at the time and place herein named;

That the testimony of said witness was reported by me in stenotype and thereafter transcribed into typewritten form.

I further certify that I am not of kin or otherwise associated with any of the parties of said cause of action and that I am not interested in the event thereof.



Notary Public  
**SCOTT M. KNIGHT**  
Commission Number 656384  
My Commission Expires  
June 18, 2016  
State of Utah

*Scott M. Knight*

Scott M. Knight, RPR  
Utah License Number 110171-7801

# Exhibit 5





PBX-Change  
5706 Benjamin Center Drive  
Suite 116  
Tampa, FL 33634

Invoice date      Invoice #      Customer #  
Oct 19th, 2010      31536      3998  
Old #: 7273028119

## INVOICE

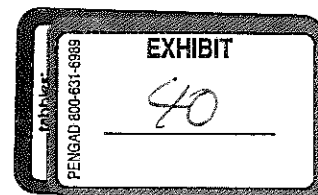
Accounts payable  
Trifecta Marketing Group  
3985 Gateway Centre Blvd  
Suite 200  
Pinellas Park, FL 33782

Service Address  
Call Center - Pinellas Park  
3985 Gateway Centre Blvd #200  
Pinellas Park, FL 33782

Terms: Payable upon receipt

### CHARGES

Ref	Description	Amount
26765	10 Toll Free Phone Numbers (DID) (10/19/10 - 11/01/10) TF DID: 8777285608, 8777285886, 8777285903, 8777287944, 8777288045 TF DID: 8772341724, 8773370033, 8773371407, 8773376649, 8773382942	\$6.29
26770	10 Toll Free Phone Numbers (DID) (10/19/10 - 11/01/10) TF DID: 8777285731, 8777285890, 8777287284, 8777288044, 8777288671 TF DID: 8772357755, 8773371280, 8773375456, 8773378011, 8773385252	\$6.29
26768	10 Toll Free Phone Numbers (DID) (10/19/10 - 11/01/10) TF DID: 8773974363, 8773974365, 8773974367, 8773974369, 8773977611 TF DID: 8773385345, 8773387225, 8773391122, 8773395327, 8773405777	\$6.29
26773	10 Toll Free Phone Numbers (DID) (10/19/10 - 11/01/10) TF DID: 8773974364, 8773974366, 8773974368, 8773977604, 8773977618 TF DID: 8773385392, 8773388113, 8773391557, 8773397117, 8773416120	\$6.29
26774	10 Level 3 Phone Numbers (DID) (10/19/10 - 11/01/10) TF DID: 8778431992, 8778440482, 8778442732, 8778444799, 8778445395 TF DID: 8773420287, 8773420428, 8773420501, 8773421245, 8773421382	\$6.29
26772	10 Toll Free Phone Numbers (DID) (10/19/10 - 11/01/10) TF DID: 8778432169, 8778440641, 8778444798, 8778444939, 8778448456 TF DID: 8773420421, 8773420497, 8773420545, 8773421318, 8773421391	\$6.29
26766	10 Toll Free Phone Numbers (DID) (10/19/10 - 11/01/10) TF DID: 8775759206, 8775759458, 8775759461, 8775759466, 8775759469 TF DID: 8774090004, 8774091122, 8774091359, 8774099363, 8774099377	\$6.29
26769	10 Toll Free Phone Numbers (DID) (10/19/10 - 11/01/10) TF DID: 8775759302, 8775759460, 8775759465, 8775759468, 8775759512 TF DID: 8774090265, 8774091352, 8774099362, 8774099364, 8774099380	\$6.29
26767	10 Toll Free Phone Numbers (DID) (10/19/10 - 11/01/10) TF DID: 8774376790, 8774380482, 8774389007, 8774390044, 8774390276 TF DID: 8777115429, 8777115436, 8777115440, 8777115443, 8777115448	\$6.29
26771	10 Toll Free Phone Numbers (DID) (10/19/10 - 11/01/10) TF DID: 8774377870, 8774383137, 8774389494, 8774390066, 8774395599 TF DID: 8777115430, 8777115439, 8777115442, 8777115446, 8777115449	\$6.29
26764	Ordering Fee for 100 new toll free numbers	\$250.00



26790	Toll Free Usage Oct 10 - Oct 17 / 2010 197,662.7 min	\$3755.59
26793	Interstate Usage Oct 10 - Oct 17 / 2010 59,050.1 min	\$649.55
26794	Intra-state Usage Oct 10 - Oct 17 / 2010 4,730.9 min	\$52.04
26795	USF Fees on TF & LD Usage Oct 10 - 17/2010 - 12.9%	\$574.98
26796	Local Inbound Usage Oct 10 - Oct 17 / 2010 5,161.5 min	\$56.78
	Total	\$5401.84

NEW CHARGES SUB-TOTAL \$5401.84

**TAXES, SURCHARGES, AND FEES**

Ref	Description	Amount
	PINELLAS County CST (State 6.8%, GR 2.37%, Local 6.0%)	\$781.53
	Taxes, Surcharges, and Fees Total	\$781.53

NEW CHARGES TOTAL \$6183.37

**CREDITS, PAYMENTS, AND ADJUSTMENTS**

Ref	Description	Amount
	Payment received 11/01/10	\$6183.37
	Credits, Payments, and Adjustments Total	\$6183.37

Balance Due - Payable upon receipt \$0.00

**NOTES**

1. Thank you for choosing PBX-Change as your Premier VoIP Service Provider.
2. Tech support is available at support@PBX-Change.com or 813.356.0100.
3. For billing inquiries please e-mail billing@PBX-Change.com or call us at (813)243-8850 option 3.
4. Note: All past due amounts are subject to a 15.00 Late Payment Penalty. Service is subject to interruption if invoice remains unpaid until 10th of following month.

# Exhibit 6



PBX-Change  
5706 Benjamin Center Drive  
Suite 116  
Tampa, FL 33634

Invoice date  
Oct 20th, 2010

Invoice #  
31537

Customer #  
3998  
Old #: 7273028119

## INVOICE

**Accounts payable**  
Trifecta Marketing Group  
3985 Gateway Centre Blvd  
Suite 200  
Pinellas Park, FL 33782

**Service Address**  
Call Center - Pinellas Park  
3985 Gateway Centre Blvd #200  
Pinellas Park, FL 33782

Terms: Payable upon receipt

### CHARGES

Ref	Description	Amount
26765	10 Toll Free Phone Numbers (DID) (11/01/10 - 12/01/10) TF DID: 8777285608, 8777285886, 8777285903, 8777287944, 8777288045 TF DID: 8772341724, 8773370033, 8773371407, 8773376649, 8773382942	\$15.00
26770	10 Toll Free Phone Numbers (DID) (11/01/10 - 12/01/10) TF DID: 8777285731, 8777285890, 8777287284, 8777288044, 8777288671 TF DID: 8772357755, 8773371280, 8773375456, 8773378011, 8773385252	\$15.00
26768	10 Toll Free Phone Numbers (DID) (11/01/10 - 12/01/10) TF DID: 8773974363, 8773974365, 8773974367, 8773974369, 8773977611 TF DID: 8773385345, 8773387225, 8773391122, 8773395327, 8773405777	\$15.00
26773	10 Toll Free Phone Numbers (DID) (11/01/10 - 12/01/10) TF DID: 8773974364, 8773974366, 8773974368, 8773977604, 8773977618 TF DID: 8773385392, 8773388113, 8773391557, 8773397117, 8773416120	\$15.00
26774	10 Level 3 Phone Numbers (DID) (11/01/10 - 12/01/10) TF DID: 8778431992, 8778440482, 8778442732, 8778444799, 8778445395 TF DID: 8773420287, 8773420428, 8773420501, 8773421245, 8773421382	\$15.00
26772	10 Toll Free Phone Numbers (DID) (11/01/10 - 12/01/10) TF DID: 8778432169, 8778440641, 8778444798, 8778444939, 8778448456 TF DID: 8773420421, 8773420497, 8773420545, 8773421318, 8773421391	\$15.00
26766	10 Toll Free Phone Numbers (DID) (11/01/10 - 12/01/10) TF DID: 8775759206, 8775759458, 8775759461, 8775759466, 8775759469 TF DID: 8774090004, 8774091122, 8774091359, 8774099363, 8774099377	\$15.00
26769	10 Toll Free Phone Numbers (DID) (11/01/10 - 12/01/10) TF DID: 8775759302, 8775759460, 8775759465, 8775759468, 8775759512 TF DID: 8774090265, 8774091352, 8774099362, 8774099364, 8774099380	\$15.00
26767	10 Toll Free Phone Numbers (DID) (11/01/10 - 12/01/10) TF DID: 8774376790, 8774380482, 8774389007, 8774390044, 8774390276 TF DID: 8777115429, 8777115436, 8777115440, 8777115443, 8777115448	\$15.00
26771	10 Toll Free Phone Numbers (DID) (11/01/10 - 12/01/10) TF DID: 8774377870, 8774383137, 8774389494, 8774390066, 8774395599 TF DID: 8777115430, 8777115439, 8777115442, 8777115446, 8777115449	\$15.00
Total		\$150.00



NEW CHARGES SUB-TOTAL \$150.00

**TAXES, SURCHARGES, AND FEES**

Ref	Description	Amount
	PINELLAS County CST (State 6.8%, GR 2.37%, Local 6.0%)	\$22.76
	Taxes, Surcharges, and Fees Total	\$22.76

NEW CHARGES TOTAL \$172.76

**CREDITS, PAYMENTS, AND ADJUSTMENTS**

Ref	Description	Amount
	Payment received 11/03/10	\$172.76
	Credits, Payments, and Adjustments Total	\$172.76

**Balance Due - Payable upon receipt \$0.00****NOTES**

1. Thank you for choosing PBX-Change as your Premier VoIP Service Provider.
2. Tech support is available at support@PBX-Change.com or 813.356.0100.
3. For billing inquiries please e-mail billing@PBX-Change.com or call us at (813)243-8850 option 3.
4. Note: All past due amounts are subject to a 15.00 Late Payment Penalty. Service is subject to interruption if invoice remains unpaid until 10th of following month.

# Exhibit 7



PBX-Change  
5706 Benjamin Center Drive  
Suite 116  
Tampa, FL 33634

Invoice date  
Nov 11th, 2010

Invoice #  
31672

Customer #  
3998  
Old #: 7273028119

## INVOICE

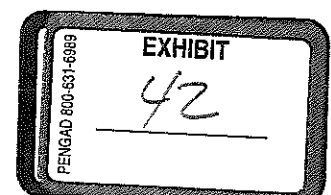
**Accounts payable**  
Trifecta Marketing Group  
3985 Gateway Centre Blvd  
Suite 200  
Pinellas Park, FL 33782

**Service Address**  
Call Center - Pinellas Park  
3985 Gateway Centre Blvd #200  
Pinellas Park, FL 33782

Terms: Payable upon receipt

### CHARGES

Ref	Description	Amount
6982	<b>4 Phone Numbers (DID) (12/01/10 - 01/01/11)</b> DID: 6232394511, 6232394512, 6232394513, 6232394514 Phoenix inbound only	\$6.00
23577	<b>1 Phone Number (DID) (12/01/10 - 01/01/11)</b> DID: 7272104700 Around the World Printing	\$1.50
23580	<b>10 Phone Numbers (DID) (12/01/10 - 01/01/11)</b> DID: 7272104701, 7272104702, 7272104703, 7272104704, 7272104705, 7272104706 DID: 7272104707, 7272104708, 7272104709, 7272104710 Around the World Printing	\$15.00
23581	<b>10 Phone Numbers (DID) (12/01/10 - 01/01/11)</b> DID: 7272104711, 7272104712, 7272104713, 7272104714, 7272104715, 7272104716 DID: 7272104717, 7272104718, 7272104719, 7272104720 Around the World Printing	\$15.00
23583	<b>1 Phone Number (DID) (12/01/10 - 01/01/11)</b> DID: 7272104721 Around the World Printing	\$1.50
25465	<b>4 Phone Numbers (DID) (12/01/10 - 01/01/11)</b> DID: 7273028119 (BTN), 7273028116 (Fax ) DID: 7273028114 (Inbound & local outbound), 7273028115 (Impulse Local)	\$6.00
26749	<b>9 Phone Numbers (DID) (12/01/10 - 01/01/11)</b> DID: 8134187640, 8136398132, 8134186377, 8134638722, 8134186382, 8134632313 DID: 8134632312, 7274984789, 7274981853	\$13.50
26747	<b>10 Phone Numbers (DID) (12/01/10 - 01/01/11)</b> DID: 7273698856, 7274981744, 7275654984, 7275654732, 7274980792, 7274984180 DID: 7274981741, 7274981753, 7275654749, 7274984126	\$15.00
8033	<b>5 Phone Numbers (DID) (12/01/10 - 01/01/11)</b> DID: 7274985679, 7274985680, 7274982476, 7275649776, 7274985682	\$7.50
8028	<b>10 Phone Numbers (DID) (12/01/10 - 01/01/11)</b> DID: 7274985681, 7274985690, 7275649788, 7274985688, 7275649492, 7274982475 DID: 7275649491, 7275649490, 7274982477, 7274985684	\$15.00
22853	<b>3 Phone Numbers (DID) (12/01/10 - 01/01/11)</b> DID: 7274985683, 7274985687, 7274985833	\$4.50
8029	<b>10 Phone Numbers (DID) (12/01/10 - 01/01/11)</b> DID: 7274985689, 7274982474, 7275649725, 7274985686, 7274982478, 7275654665 DID: 7274985691, 7274985685, 7273696509, 7275649681	\$15.00



25466	5 Toll Free Phone number (TF DID) (12/01/10 - 01/01/11)	\$10.00
	TF DID: 8009630712, 8009630713, 8009632942, 8009635992, 8009636097	
26748	10 Phone Numbers (DID) (12/01/10 - 01/01/11)	\$15.00
	DID: 8135794098, 8137744583, 8134187629, 8137743811, 8134632310, 8137743831	
	DID: 8137744538, 8134632311, 8135794608, 8134187633	
8026	10 Phone Numbers (DID) (12/01/10 - 01/01/11)	\$15.00
	DID: 8137745150, 8137745126, 8133210199, 8136398842, 8135791623, 8139900538	
	DID: 8136398719, 8137743825, 8137743079, 8134638542	
8032	Phone Numbers (DID) (12/01/10 - 01/01/11)	\$7.50
	DID: 8135791270, 8133210118, 8136398827, 8135792881	
8027	10 Phone Numbers (DID) (12/01/10 - 01/01/11)	\$15.00
	DID: 8137743775, 8137743816, 8137745147, 8137745127, 8136398852, 8135791624	
	DID: 8137743828, 8136398645, 8136398838, 8136398037	
8030	5 Toll Free Phone number (TF DID) (12/01/10 - 01/01/11)	\$10.00
	TF DID: 8772751148, 8772760980, 8772760982, 8772761250, 8772760954	
8031	5 Toll Free Phone number (TF DID) (12/01/10 - 01/01/11)	\$10.00
	TF DID: 8772761254, 8772764179, 8772767991, 8772768611, 8772768924	
9252	5 Toll Free Phone number (TF DID) (12/01/10 - 01/01/11)	\$10.00
	TF DID: 8773019899, 8773019902, 8773019904, 8773019907, 8773019922	
9253	5 Toll Free Phone number (TF DID) (12/01/10 - 01/01/11)	\$10.00
	TF DID: 8773019901, 8773019903, 8773019905, 8773019908, 8773019923	
26765	10 Toll Free Phone Numbers (DID) (12/01/10 - 01/01/11)	\$15.00
	TF DID: 8777285608, 8777285886, 8777285903, 8777287944, 8777288045	
	TF DID: 8772341724, 8773370033, 8773371407, 8773376649, 8773382942	
26770	10 Toll Free Phone Numbers (DID) (12/01/10 - 01/01/11)	\$15.00
	TF DID: 8777285731, 8777285890, 8777287284, 8777288044, 8777288671	
	TF DID: 87723357755, 8773371280, 8773375456, 8773378011, 8773385252	
10736	10 Toll Free Phone Numbers (DID) (12/01/10 - 01/01/11)	\$20.00
	TF DID: 8773397694, 8773397695, 8773397696, 8773397698, 8773397699	
	TF DID: 8773397711, 8773397712, 8773397713, 8773397714, 8773397715	
26768	10 Toll Free Phone Numbers (DID) (12/01/10 - 01/01/11)	\$15.00
	TF DID: 8773974363, 8773974365, 8773974367, 8773974369, 8773977611	
	TF DID: 8773385345, 8773387225, 8773391122, 8773395327, 8773405777	
26773	10 Toll Free Phone Numbers (DID) (12/01/10 - 01/01/11)	\$15.00
	TF DID: 8773974364, 8773974366, 8773974368, 8773977604, 8773977618	
	TF DID: 8773385392, 8773388113, 8773391557, 8773397117, 8773416120	
26774	10 Level 3 Phone Numbers (DID) (12/01/10 - 01/01/11)	\$15.00
	TF DID: 8778431992, 8778440482, 8778442732, 8778444799, 8778445395	
	TF DID: 8773420287, 8773420428, 8773420501, 8773421245, 8773421382	
26772	10 Toll Free Phone Numbers (DID) (12/01/10 - 01/01/11)	\$15.00
	TF DID: 8778432169, 8778440641, 8778444798, 8778444939, 8778448456	
	TF DID: 8773420421, 8773420497, 8773420545, 8773421318, 8773421391	
26766	10 Toll Free Phone Numbers (DID) (12/01/10 - 01/01/11)	\$15.00
	TF DID: 8775759206, 8775759458, 8775759461, 8775759466, 8775759469	
	TF DID: 8774090004, 8774091122, 8774091359, 8774099563, 8774099377	
26769	10 Toll Free Phone Numbers (DID) (12/01/10 - 01/01/11)	\$15.00
	TF DID: 8775759302, 8775759460, 8775759465, 8775759468, 8775759512	
	TF DID: 8774090265, 8774091352, 8774099362, 8774099364, 8774099380	
9689	4 Toll Free Phone number (TF DID) (12/01/10 - 01/01/11)	\$8.00



TF DID: 8774324758, 8774351404, 8774351405, 8774351406

25470	10 Toll Free Phone Numbers (DID) (12/01/10 - 01/01/11)	\$20.00
	DID: 8774481971, 8774481972, 8774481973, 8774481974, 8774481975, 8774481977 DID: 8774481978, 8774481979, 8774481981, 8774481982	
25469	10 Level 3 Phone Numbers (DID) (12/01/10 - 01/01/11)	\$20.00
	DID: 8774482955, 8774482957, 8774482958, 8774482959, 8774482960, 8774482961 DID: 8774482963, 8774482964, 8774482966, 8774482967	
25474	10 Toll Free Phone Numbers (DID) (12/01/10 - 01/01/11)	\$20.00
	DID: 8774485773, 8774485776, 8774485779, 8774485784, 8774485786, 8774485787 DID: 8774485788, 8774485789, 8774485790, 8774485791	
25468	10 Toll Free Phone Numbers (DID) (12/01/10 - 01/01/11)	\$20.00
	DID: 8774486686, 8774486974, 8774487013, 8774487014, 8774487015, 8774487016 DID: 8774487017, 8774487021, 8774487022, 8774487023	
10735	10 Toll Free Phone Numbers (DID) (12/01/10 - 01/01/11)	\$20.00
	TF DID: 8774566274, 8774566280, 8774566289, 8774566357, 8774566360 TF DID: 8774566361, 8774566367, 8774566369, 8774566370, 8774566371	
6978	Toll Free Phone number (TF DID) (12/01/10 - 01/01/11)	\$10.00
	TF DID: 8774754180, 8774814909, 8774814910, 8775325967, 8775325968	
6979	Toll Free Phone number (TF DID) (12/01/10 - 01/01/11)	\$2.00
	TF DID: 8775325969	
10733	10 Toll Free Phone Numbers (DID) (12/01/10 - 01/01/11)	\$20.00
	TF DID: 8775352339, 8775352364, 8775352366, 8775352367, 8775352369 TF DID: 8775352370, 8775352371, 8775352372, 8775352375, 8775352376	
25473	10 Toll Free Phone Numbers (DID) (12/01/10 - 01/01/11)	\$20.00
	DID: 8775544631, 8775544634, 8775544645, 8775544649, 8775544650, 8775544659 DID: 8775544660, 8775544661, 8775544668, 8775544669	
8034	5 Toll Free Phone number (TF DID) (12/01/10 - 01/01/11)	\$10.00
	TF DID: 8776123984, 8776124046, 8776124047, 8776124048, 8776124049	
8035	5 Toll Free Phone number (TF DID) (12/01/10 - 01/01/11)	\$10.00
	TF DID: 8776124051, 8776124052, 8776124056, 8776124058, 8776124060	
25471	10 Level 3 Phone Numbers (DID) (12/01/10 - 01/01/11)	\$20.00
	DID: 8776635057, 8776635339, 8776635345, 8776635410, 8776635411, 8776635412 DID: 8776635413, 8776635414, 8776635415, 8776635416	
9619	9 Toll Free Phone number (TF DID) (12/01/10 - 01/01/11)	\$18.00
	TF DID: 8776804175, 8776804177, 8776804179, 8776804183, 8776804176 TF DID: 8776804178, 8776804180, 8776804182, 8776804184	
26767	10 Toll Free Phone Numbers (DID) (12/01/10 - 01/01/11)	\$15.00
	TF DID: 8774376790, 8774380482, 8774389007, 8774390044, 8774390276 TF DID: 8777115429, 8777115436, 8777115440, 8777115443, 8777115448	
26771	10 Toll Free Phone Numbers (DID) (12/01/10 - 01/01/11)	\$15.00
	TF DID: 8774377870, 8774383137, 8774389494, 8774390066, 8774395599 TF DID: 8777115430, 8777115439, 8777115442, 8777115446, 8777115449	
10734	10 Toll Free Phone Numbers (DID) (12/01/10 - 01/01/11)	\$20.00
	TF DID: 8777750388, 8777750389, 8777750390, 8777750456, 8777750527 TF DID: 8777750529, 8777750530, 8777750531, 8777750532, 8777750533	
10732	5 Toll Free Phone Numbers (DID) (12/01/10 - 01/01/11)	\$10.00
	TF DID: 8777864902, 8777864903, 8777864904, 8777864906, 8777864907	
25472	10 Toll Free Phone Numbers (DID) (12/01/10 - 01/01/11)	\$20.00
	DID: 8777958768, 8777958769, 8777958770, 8777958771, 8777958772, 8777958773	

DID: 8777958775, 8777958776, 8777958779, 8777958781

25467	10 Toll Free Phone Numbers (DID) (12/01/10 - 01/01/11)	\$20.00
	DID: 8778591841, 8778591842, 8778591843, 8778593740, 8778595601, 8778595612	
	DID: 8778595615, 8778595616, 8778595617, 8778595618	
25476	10 Toll Free Phone Numbers (DID) (12/01/10 - 01/01/11)	\$20.00
	DID: 8778595619, 8778595620, 8778595621, 8778595624, 8778595628, 8778595630	
	DID: 8778595631, 8778595632, 8778595635, 8778595636	
25475	10 Phone Numbers (DID) (12/01/10 - 01/01/11)	\$15.00
	DID: 8778595637, 8778595639, 8778595640, 8778595641, 8778595642, 8778595643	
	DID: 8778595645, 8778595647, 8778595648, 8778595649	
22975	1 Toll Free Phone number (TF DID) (12/01/10 - 01/01/11)	\$2.00
	TF DID: 8887515186 (Around the World Printing)	
23002	1 Phone Number (DID) (12/01/10 - 01/01/11)	\$1.50
	DID: 9412091694	
24875	1 Phone Number (DID) (12/01/10 - 01/01/11)	\$1.50
	DID: 9414624329	
	Wam Media Group	
23576	1 - E911 Fees - per DID (12/01/10 - 01/01/11)	\$1.00
	Around the World Printing	
23579	10 - E911 Fees - per DID (12/01/10 - 01/01/11)	\$10.00
	Around the World Printing	
23582	1 - E911 Fees - per DID (12/01/10 - 01/01/11)	\$1.00
	Around the World Printing	
24874	1 - E911 Fees - per DID (12/01/10 - 01/01/11)	\$1.00
22854	10 - E911 Fees - per DID (12/01/10 - 01/01/11)	\$10.00
6984	2 Phone Line with Domestic LD (12/01/10 - 01/01/11)	\$60.00
6987	2 - E911 Fees - per DID (12/01/10 - 01/01/11)	\$2.00
23578	10 - E911 Fees - per DID (12/01/10 - 01/01/11)	\$10.00
	Around the World Printing	
	Total	\$811.00

NEW CHARGES SUB-TOTAL \$811.00

## TAXES, SURCHARGES, AND FEES

Ref	Description	Amount
	PINELLAS County CST (State 6.8%, GR 2.37%, Local 6.0%)	\$113.02
	Taxes, Surcharges, and Fees Total	\$113.02

NEW CHARGES TOTAL \$924.02

## CREDITS, PAYMENTS, AND ADJUSTMENTS

Ref	Description	Amount
	Payment received 12/06/10	\$924.02
	Credits, Payments, and Adjustments Total	\$924.02

Balance Due - Payable upon receipt \$0.00

## NOTES

1. Thank you for choosing PBX-Change as your Premier VoIP Service Provider.
2. Tech support is available at support@PBX-Change.com or 813.356.0100.
3. For billing inquiries please e-mail billing@PBX-Change.com or call us at (813)243-8850 option 3.
4. Note: All past due amounts are subject to a 15.00 Late Payment Penalty. Service is subject to interruption if invoice remains unpaid until 10th of following month.

---

PBX-Change Flexible technology for voice and data

# Exhibit 8

(Filed Under Seal)

# Exhibit 9

(Filed Under Seal)

# Exhibit 10

(Filed Under Seal)

# Exhibit 11

(Filed Under Seal)

# Exhibit 12



T-Mobile USA  
Law Enforcement Relations Group  
4 Sylvan Way  
Parsippany, New Jersey 07054  
Phone (973) 292-8911  
Fax (973) 292-8697

Date Jun 27, 2012

RYAN ANDREWS

CHICAGO, IL

Dear ANDREWS

This is in response to the Civil Subpoena, dated Jun 08, 2012, and served upon T-Mobile USA, Inc. on Jun 27, 2012. This subpoena requests Subscriber Information for the T-Mobile subscriber associated with MSISDN: 650-283-0793.

A search of our subscriber database discloses the following information:

Billing Account Number: 55553737  
Billing Account Status: Deactivated  
Billing Account Name: vincent none montalbano  
Date of Birth: 11/27/1990  
Social Security Number:  
Company Name: N/A  
Address: none none, none  
Telephone 1: N/A  
Telephone 2: N/A  
IMSI: 310260434427230  
Mobile Number: 650-283-0793  
Mobile Number Name: vincent none montalbano  
Date Account Established: 11/15/2010  
MSISDN Status: Deactivated  
Disconnect Type and Date: Deactivated 01/31/2011  
Post Paid/Pre-Paid: Pre-Paid  
Last Refill Date: 11-27-2010  
Ported Indicator: N/A

Original materials follow via US Mail.


Should you have any questions regarding this information please feel free to contact me at your convenience. My direct telephone number is: 973-292-8681.

Very truly yours,

---

Vanessa Dunston  
T-Mobile Law Enforcement Relations Group

# Exhibit 13

FLORIDA DEPARTMENT OF STATE DIVISION OF CORPORATIONS	
	
<a href="#">Previous on List</a> <a href="#">Next on List</a> <a href="#">Return To List</a>	
<a href="#">Events</a>	No Name History
<b>Detail by Entity Name</b>	
<b><u>Florida Limited Liability Company</u></b>	
IMPULSE MARKETING LLC	
<b><u>Filing Information</u></b>	
Document Number	L09000015714
FEI/EIN Number	NONE
Date Filed	02/17/2009
State	FL
Status	INACTIVE
Last Event	ADMIN DISSOLUTION FOR ANNUAL REPORT
Event Date Filed	09/24/2010
Event Effective Date	NONE
<b><u>Principal Address</u></b>	
3985 GATEWAY CENTER BLVD. PINELLAS PARK FL 33782	
Changed 07/27/2009	
<b><u>Mailing Address</u></b>	
3985 GATEWAY CENTER BLVD. PINELLAS PARK FL 33782	
Changed 07/27/2009	
<b><u>Registered Agent Name &amp; Address</u></b>	
BAKER, GARY H 3993 ARLINGTON DRIVE PALM HARBOR FL 34685 US	
<b><u>Manager/Member Detail</u></b>	
<b>Name &amp; Address</b>	
Title MGRM	
MONTALBANO, JOSEPH A 13779 58TH ST. NORTH, SUITE 312 CLEARWATER FL 33760	
<b><u>Annual Reports</u></b>	

**No Annual Reports Filed****Document Images**08/02/2010 -- CORLCMMRES[View image in PDF format](#)07/27/2009 -- ADDRESS CHANGE[View image in PDF format](#)02/17/2009 -- Florida Limited Liability[View image in PDF format](#)02/17/2009 -- CORLCMMRES[View image in PDF format](#)**Note:** This is not official record. See documents if question or conflict.[Previous on List](#)[Next on List](#)[Return To List](#)**Entity Name Search**[Events](#)**No Name History**[Submit](#)

[Home](#) | [Contact us](#) | [Document Searches](#) | [E-Filing Services](#) | [Forms](#) | [Help](#) |  
[Copyright ©](#) and [Privacy Policies](#)  
State of Florida, Department of State

# Exhibit 14

(Filed Under Seal)

# Exhibit 15

(Filed Under Seal)

# Exhibit 16

1 Sean Reis (SBN 184044)  
2 Edelson McGuire, LLP  
3 30021 Tomas Street, Suite 300  
4 Rancho Santa Margarita, California 92688  
5 Tel: 949.459.2124  
6 Fax: 949.459.2123  
7 sreis@edelson.com

8 Ryan Andrews (*Pro Hac Vice*)  
9 randrews@edelson.com  
10 John C. Ochoa (*Pro Hac Vice*)  
11 jochoa@edelson.com  
12 Edelson McGuire, LLC  
13 350 North LaSalle, Suite 1300  
14 Chicago, Illinois 60654  
15 Tel: 312.589.6370  
16 Fax: 312.589.6378

17 *Counsel for Plaintiff*

18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

JESSICA LEE, individually and on behalf of a  
class of similarly situated individuals,

Plaintiff,

v.

STONEBRIDGE LIFE INSURANCE  
COMPANY, a Vermont corporation, and  
TRIFECTA MARKETING GROUP, LLC, a  
Florida limited liability company,

Defendants.

Case No. CV 11-0043-RS

**PLAINTIFF'S PARTIAL RESPONSE  
TO DEFENDANT STONEBRIDGE  
LIFE INSURANCE COMPANY'S  
FIRST SET OF INTERROGATORIES**

Judge: Hon. Richard Seeborg



1 Plaintiff Jessica Lee ("Plaintiff"), by and through her attorneys, pursuant to Rules 26 and  
2 33 of the Federal Rules of Civil Procedure, hereby responds in part to Defendant Stonebridge Life  
3 Insurance Company's ("Defendant" or "Stonebridge") First Set of Interrogatories (the  
4 "Interrogatories") as follows:

5 **General Objections**

6 The following general objections apply to all Interrogatories, definitions and instructions,  
7 regardless of whether specific objections are also made. By providing information or documents  
8 in response to an Interrogatory, Plaintiff does not waive any objection she may have to the  
9 Interrogatory.

10 1. Plaintiff objects to each Interrogatory, definition, and instruction, to the extent they  
11 seek or call for the production or disclosure of information protected by the attorney-client  
12 privilege and the work product doctrine, or any other applicable privilege or doctrine. By  
13 responding to any interrogatory, Plaintiff does not waive, and hereby retains, any applicable  
14 privilege or doctrine as to that interrogatory, or any other supplemental interrogatories.

15 2. Plaintiff objects to each interrogatory, definition, and instruction, to the extent they  
16 seek or call for the production or disclosure of any confidential, sensitive, or otherwise private  
17 information or documents of Plaintiff. By responding to any interrogatory, Plaintiff does not  
18 waive, and hereby retains, the right to object to the disclosure or production of such information  
19 or documents and to declare such information or documents confidential or for "Attorneys Eyes  
20 Only."

21 3. In the event that privileged or confidential information or documents are produced  
22 or disclosed, the production or disclosure, unless otherwise expressly stated to the contrary in  
23 writing at the time of production or disclosure, is inadvertent and shall be deemed to be null, void,  
24 and of no legal consequence. Defendant and its counsel are instructed to refrain from reading or  
25 copying any inadvertently used document that contains such privileged or confidential  
26 information if they have been advised of the privileged or confidential nature of the information  
27 by Plaintiff or otherwise become aware of its privileged or confidential nature, and to return it  
28 (and all copies made), immediately to Plaintiff's counsel.

1           4.       Plaintiff objects to Stonebridge's definition of "YOU" on the grounds that it is  
2       overly broad and unduly burdensome to the extent that it purports to include persons and entities  
3       outside of Plaintiff Jessica Lee, including but not limited to "any person acting or purporting to  
4       act on her behalf, including but not limited to any and all present or former employees, agents,  
5       representatives, or attorneys." Plaintiff will interpret these terms and any other reference to  
6       "YOU," in these Interrogatories as referring to Plaintiff Jessica Lee and answer accordingly.

7           5.       Plaintiff further objects to each interrogatory, definition, and instruction to the  
8       extent they seek to impose obligations different than those imposed by the Federal Rules of Civil  
9       Procedure or the Local Rules of this Court.

10          6.       Plaintiff objects to each interrogatory, definition, and instruction to the extent they  
11       seek documents that are unreasonably cumulative or duplicative, that are publicly available, that  
12       are already in the possession, custody, or control of Defendant or its counsel, that are of no  
13       greater burden for Defendant to obtain than Plaintiff, or that are obtainable from some other  
14       source that is more convenient, less burdensome, or less expensive, that are otherwise more  
15       appropriately directed to another, and/or to the extent that compliance would be unduly  
16       burdensome, expensive, or oppressive. Unless otherwise indicated specifically below, Plaintiff  
17       will not produce such documents.

18          7.       Plaintiff objects to each interrogatory, definition, and instruction to the extent they  
19       are unreasonably vague, overly broad, unduly burdensome, cumulative, duplicative, seek  
20       information that is not relevant or reasonably calculated to lead to the discovery of admissible  
21       evidence, seek information that is not in the custody, possession, or control of Plaintiff, or seek  
22       information that is obtainable from another source that is more convenient, less burdensome, and  
23       less expensive.

24          8.       In responding to these interrogatories, Plaintiff does not concede the relevance,  
25       materiality, or admissibility of any of the documents or information sought therein. Plaintiff's  
26       responses are made subject to and without waiving any objections as to relevance, materiality, or  
27       admissibility.

28          9.       Plaintiff objects to each interrogatory, definition, and instruction to the extent they

1 incorporate or call for a legal conclusion or incorrect conclusion of fact, or rely on a legal  
 2 conclusion or incorrect conclusion of fact. Plaintiff's responses herein shall not be construed as  
 3 stating or implying any conclusions of law or incorrect conclusions of fact concerning the matters  
 4 referenced in any interrogatory.

5 10. Plaintiff's investigation in this action continues, and the following answers to  
 6 Defendant's interrogatories reflect only the current status of Plaintiff's knowledge. Plaintiff  
 7 reserves the right to supplement and/or amend her answers as additional information becomes  
 8 known to her, including information collected through discovery.

9 11. The foregoing general objections and statements apply to each of the particular  
 10 interrogatories propounded by Defendant and are hereby incorporated within each specific answer  
 11 set forth below.

#### 12 **Non-Waiver**

13 Plaintiff's responses are made and documents are produced without waiving her right to  
 14 object (on the grounds of relevancy, hearsay, materiality, competency, or any other ground) to the  
 15 use of her responses or documents in any subsequent stage or proceeding in this action or any  
 16 other action.

#### 17 **Interrogatory Responses**

#### 18 **INTERROGATORY NO. 2**

19 With respect to the text message identified in paragraph 22 of the AMENDED  
 20 COMPLAINT, provide the following information: (a) the full content of the text message; (b) the  
 21 date and time the text message was received; (c) the number that appeared in the "form" field;  
 22 and (d) whether YOU took any action to follow up on or accept any offer provided in the text  
 23 message or in response to the text message.

24 **RESPONSE:** In addition to the general objections above, Plaintiff objects to this Interrogatory  
 25 on the grounds that the information sought is within Defendant's possession, custody or control.  
 26 Subject to and without waiving this objection, or any of the general objections above, Plaintiff  
 27 states as follows:

28 (a) The full content of the text message received was:

Thanks 4 Visiting Our Website Please  
Call 877-711-5429 To Claim Your \$100  
Walmart Gift Card Voucher!  
Reply STOP 2 Unsub

(b) The text message was received on November 30, 2010 at 10:48 a.m.

(c) The text message came from phone number 650-283-0793.

(d) I took no action to follow up on the receipt of the message other than to forward the message without any alteration to my counsel, Edelson McGuire, LLC for the purpose of seeking legal advice. I have confirmed that, other than the fact that the text message I received was not in all capital letters, the text message set forth in Paragraph 22 of the Amended Complaint is the exact text message that I forwarded to my counsel after receipt.

Investigation continues, and Plaintiff reserves the right to supplement her response to this request at an appropriate time.

**INTERROGATORY NO. 3**

IDENTIFY each PERSON YOU forwarded or sent the text message identified in paragraph 22 of the AMENDED COMPLAINT to.

**RESPONSE:** In addition to the general objections above, Plaintiff objects to this Interrogatory on the grounds that the information sought is protected by the attorney-client privilege. Subject to and without waiving this objection, or any of the general objections above, Plaintiff states that shortly after receipt of the text message identified in her Response to Interrogatory 2 above, Plaintiff forwarded the text message without any alteration to her counsel, Edelson McGuire, LLC, for the purpose of seeking legal advice. Investigation continues, and Plaintiff reserves the right to supplement her response to this request at an appropriate time.

Dated: August 29, 2012

Respectfully Submitted,

JESSICA LEE, individually and on behalf of a class  
of similarly situated individuals

BY: /s/ Sean Reis

One of her attorneys


Sean Reis (SBN 184044)  
Edelson McGuire, LLP  
30021 Tomas Street, Suite 300  
Rancho Santa Margarita, California 92688  
Tel: 949.459.2124  
Fax: 949.459.2123  
sreis@edelson.com

Ryan Andrews (*Pro Hac Vice*)  
randrews@edelson.com  
John C. Ochoa (*Pro Hac Vice*)  
jochoa@edelson.com  
Edelson McGuire, LLC  
350 North LaSalle, Suite 1300  
Chicago, Illinois 60654  
Tel: 312.589.6370  
Fax: 312.589.6378

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**VERIFICATION**

I, Jessica Lee, hereby certify that I have read the foregoing *Plaintiff's Partial Response to Defendant Stonebridge Life Insurance Company's First Set of Interrogatories*, and that said responses are true and correct to the best of my knowledge, information and belief.

  
\_\_\_\_\_  
Jessica Lee

**CERTIFICATE OF SERVICE**

I, Sean Reis, an attorney, certify that on August 29, 2012, I caused the above and foregoing *Plaintiff's Partial Response to Defendant Stonebridge Life Insurance Company's First Set of Interrogatories* by causing true and accurate copies of such paper to be sent via electronic mail and true and accurate copies of such paper to be placed in postage prepaid envelopes addressed to the persons shown below, and by causing such envelopes to be deposited in the United States Mailbox located at 350 North LaSalle Street, Chicago, Illinois, on this the 29th day of August, 2012 to:

Tiffany Chenug  
 TCheung@mofo.com  
 Dan Edward Marmalefsky  
 DMarmalefsky@mofo.com  
 MORRISON & FOERSTER LLP  
 425 Market Street  
 San Francisco, California 94105-2482

*Attorneys for Stonebridge Life Insurance Company*


Stuart D. Kirchick  
 sdkirchick@aol.com  
 Law Offices of Stuart D. Kirchick  
 1143 Story Road  
 Suite 210  
 San Jose, CA 95122

*Attorney for Trifecta Marketing Group LLC*

/s/ Sean Reis

# Exhibit 17



FLORIDA DEPARTMENT OF STATE DIVISION OF CORPORATIONS	
	
<a href="#">Previous on List</a> <a href="#">Next on List</a> <a href="#">Return To List</a>	
<a href="#">Events</a>	No Name History
<b>Detail by Entity Name</b>	
<b><u>Florida Limited Liability Company</u></b>	
TRIFECTA MARKETING GROUP LLC	
<b><u>Filing Information</u></b>	
Document Number	L10000018779
FEI/EIN Number	271976591
Date Filed	02/18/2010
State	FL
Status	ACTIVE
Effective Date	02/18/2010
Last Event	REINSTATEMENT
Event Date Filed	01/04/2012
Event Effective Date	NONE
<b><u>Principal Address</u></b>	
334 E. LAKE RD. 165 PALM HARBOR FL 34685 US  Changed 01/04/2012	
<b><u>Mailing Address</u></b>	
334 E. LAKE RD. 165 PALM HARBOR FL 34685 US  Changed 01/04/2012	
<b><u>Registered Agent Name &amp; Address</u></b>	
RUBENBAUER, ALOIS R 334 E. LAKE RD. 165 PALM HARBOR FL 34685 US  Name Changed: 01/04/2012 Address Changed: 01/04/2012	
<b><u>Manager/Member Detail</u></b>	
<b>Name &amp; Address</b>	

**Title MGRM**

ARCH FUNDING GROUP, LLC  
223 WALL STREET STE.177  
HUNTINGTON NY 11743 US

**Title MGRM**

XCEL DIRECT INC.  
26895 ALISO CREEK ROAD, # B524  
ALISO VIEJO CA 92656 US

**Title MGR**

HERRINGTON, CURT  
875 WEST JERICHO TURNPIKE  
SMITHTOWN NY 11787 US

**Title MGR**

LYON, MARK  
26895 ALISO CREEK ROAD, # B524  
ALISO VIEJO CA 92656 US

**Annual Reports****Report Year Filed Date**

2011	01/04/2012
2012	01/04/2012

**Document Images**01/04/2012 -- REINSTATEMENT[View image in PDF format](#)02/18/2010 -- Florida Limited Liability[View image in PDF format](#)

**Note:** This is not official record. See documents if question or conflict.

[Previous on List](#)[Next on List](#)[Return To List](#)[Events](#)**No Name History****Entity Name Search**[Submit](#)

| [Home](#) | [Contact us](#) | [Document Searches](#) | [E-Filing Services](#) | [Forms](#) | [Help](#) |  
Copyright © and Privacy Policies  
State of Florida, Department of State